

Jon Sharp
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

Date: 14 July 2022

Our ref: 63450/01/NW/JW00/25617753v1

Your ref:

Dear Mr Sharp,

Certificate of Lawful Development Application for Commencement of Planning Permission 18/01405/FUL at Land South of 70 Harbour Road

We are pleased to submit an application, on behalf of our client, which seeks a Certificate of Lawful Development to confirm that planning permission ref: 18/01045/FUL has been lawfully commenced.

Site Context

The application site is located within the built-up area of Beadnell and comprises an undeveloped plot of land which sits to the south of 70 Harbour Road, an existing residential dwellinghouse.

Certificate of Lawfulness

A Certificate of Lawful Existing Use or Development (CLEUD) is sought to demonstrate that the works which taken place at the site have occurred lawfully and thus the planning permission ref. 18/01045/FUL has been implemented lawfully.

We set out below our assessment of the implementation of the development on the date of 2 July 2022.

In determining this application, the consideration is to ascertain whether any operations carried out in, on, over or under land are lawfully implemented, in accordance with Section 56 of the Town and Country Planning Act 1990 (as amended). We set out below that the operations which have been carried out and therefore implement the extant consent (ref. 18/01045/FUL) are lawful and therefore a CLUED has been submitted, as allowed by Section 191 (1)(b) of the Town and Country Planning Act 1990 (as amended)

Assessment

Section 191 (4) of the Act states:

“If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

The following provides an assessment of the proposed works undertaken at the site to establish that lawful development has taken place.

Section 56(4) of the Act identifies works which are material operations and therefore constitute implementation of a planning permission.

“Material operation” means:

- a any work of construction in the course of the erection of a building;*
- aa (any work of demolition of a building)*
- b the digging of a trench which is to contain the foundations, or part of the foundations, of a building;*
- c the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);*
- d any operation in the course of laying out or constructing a road or part of a road;*
- e any change in the use of any land which constitutes material development.*

Chronology

On 18 July 2019, planning permission (ref: 18/01045/FUL) was granted for the erection of a single dwelling, subject to 7no. planning conditions and a S106 agreement.

The S106 agreement required a financial contribution to be made to the Council, prior to commencement of development. The Coastal Mitigation Service Contribution amounted to £600.00, and this was paid on 13 May 2022. Confirmation from Northumberland County Council’s S106 Officer that the payment has been received and the S106 obligation has been met was received on 13 July 2022 and a copy of the email is submitted as evidence.

The planning conditions were as follows:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

- 2 The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

1. Drawing No 675-P1 - Location Plan;
2. Drawing No 675-P2 - Site Plan/Ground Floor Plan;
3. Drawing No 675-P3 - First Floor Plan and 3D Views;

4. Drawing No 675-P4 - East and West Elevations;
5. Drawing No 675-P5 - North and South Elevations.

Reason: To ensure the development is carried out in accordance with the approved plans.

- 3 The development shall not be occupied until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been hard surfaced, sealed and marked out in parking bays. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

- 4 The development shall not be occupied until a means of vehicular access has been modified and resurfaced in accordance with Northumberland County Council's access standards.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

- 5 No external refuse or refuse container shall be stored outside of the approved refuse storage area except on the day of refuse collection.

Reason: In the interests of the amenity of the surrounding area and highway safety, in accordance with the National Planning Policy Framework.

- 6 No demolition, development, tree felling or vegetation clearance shall be undertaken between 1 March and 31 August unless an ecologist has first confirmed that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.

Reason: To protect nesting birds, all species of which are protected by law

- 7 Notwithstanding the approved plans, no development shall take place until a Construction Method Statement, which includes adequate methods of pollution prevention/control measures, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: to prevent pollution of sensitive sites.

Condition 7 required discharging prior to commencement of works. On 14 June 2022, Northumberland County Council approved details submitted pursuant to condition 7 which comprised a Construction Management Plan. We enclose the decision notice received as evidence.

Condition 6 requires an ecologist to undertake a nesting bird survey prior to works commencing between 1 March and 31 August. On 1 July 2022, Falco Ecology undertook a nesting bird survey of the site. They have confirmed that there were no active or old bird nests recorded within the site. We enclose email confirmation from the qualified ecologist as to the results of the survey as evidence.

On 2 July 2022, works commenced on site following the erection of security hoarding. The works comprised excavation works including stripping topsoil across the site to enable trenches to be dug for foundations. We enclose photographic evidence confirming the works.

On 14 July 2022, further works took place on site including the digging of a trenches which would contain the foundations of the dwelling. We enclose photographic evidence confirming the works. These works are considered to amount to a lawful implementation of the planning permission.

Summary

As such, all pre-commencement conditions and obligations have been appropriately and lawfully completed.

This CLEUD application includes evidence to demonstrate that the operations conducted on the site have been lawfully implemented in accordance with application ref. 18/01045/FUL, therefore fulfilling the requirements of Section 56(4) of the Act (as amended) and complying with Section 191 (4) of the Act (as amended). This evidence comprises confirmation from Northumberland County Council that the pre-commencement conditions have been discharged, the planning obligations have been met, and the site was checked prior to site clearance by a qualified ecology. The works, amounting to material operations, were then undertaken prior to 18 July 2022, at which point the planning permission would have expired.

In relation to Section 191 of the Act (as amended) there is no contravention of any requirements of any permission or enforcement notice and the information provided has been confirmed to satisfy the Local Authority of the lawfulness at the time of the application of the operations described within the application ref. 18/01045/FUL.

We understand no formal previous and current enforcement action has been taken on the Site since the development commenced, there has been no breach of condition notice in force. Therefore, the operations that have taken place in respect of the excavation works and the foundation trenches comply with Section 191(b).

It is clear from this letter and the accompanying evidence that the works undertaken at the site comprise a lawful commencement of planning permission 18/01045/FUL.

Concluding remarks

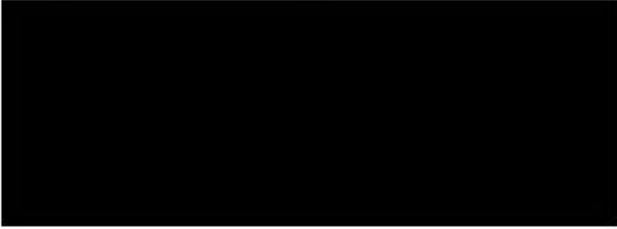
The application for a CLEUD seeks to confirm that the operations undertaken at the Site at land south of 70 Harbour Road, Beadnell constitute lawful implementation of planning permission ref.18/01045/FUL.

Section 192 (1) (b) of the Town and Country Planning Act 1990 (as amended) states that if on receipt of an application for a Certificate of Lawfulness of a Proposed Use of Development the LPA are provided with information satisfying them that the operations described in the application would be lawful if instituted at the time of the application, they shall issue a certificate to that effect. Accordingly, the applicant respectfully requests that a Lawful Development Certificate is granted at the earliest opportunity.

We trust that you have sufficient information to validate and determine this application for a CLEUD expeditiously. Should you require any further information on the site and completed works, please do not hesitate to get in touch with me.



Yours sincerely,



Neil Westwick
Senior Director

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