
2022/1107

Applicant: Sterling Capitol

Description: Application for a lawful development certificate for the demolition and clearance works of the bungalow, outbuildings, and surroundings relating to application 2019/0286 - Hybrid planning application for an extension to Capitol Park comprising a) development of 2no warehouses (floorspace of 9,755m² and 7,804m²) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation - Outline with all matters reserved apart from means of access; and b) full application for provision of associated earthworks, demolition of existing bungalow and formation of access (Amended Plans)

Address: Higham Lane Dodworth

Site Description

The site is located off Higham Lane, immediately to the north west of the existing Capitol Park business park at Dodworth. It measures 5.58 hectares in size and slopes west to east towards the M1 motorway. The site is approximately 3km from Barnsley town centre which is located to the east and is close proximity to the M1 and the A628 giving it very high accessibility to the strategic highway network.

The site comprises two fields in agricultural use that are divided by a hedge. A single bungalow (Lane Head Farm) is located at the southern corner of the site, adjacent to Higham Lane which is intended to be demolished as part of the scheme granted under 2019/0286.

Planning History

2019/0286 The site is located off Higham Lane, immediately to the north west of the existing Capitol Park business park at Dodworth. It measures 5.58 hectares in size and slopes west to east towards the M1 motorway. The site is approximately 3km from Barnsley town centre which is located to the east and is close proximity to the M1 and the A628 giving it very high accessibility to the strategic highway network.

The site comprises two fields in agricultural use that are divided by a hedge. A single bungalow (Lane Head Farm) is located at the southern corner of the site, adjacent to Higham Lane which is intended to be demolished as part of the scheme. Granted 05/09/2019

2022/ENQ/00323 Non-material amendment 17/08/2022 to vary conditions 3, 8, 10 to allow demolition to take place prior to commencement. A new condition 42 introduced relating to archaeology.

Proposed Development

The applicant has applied for a lawful development certificate for an existing use on the basis that a technical start has been made and the permission 2019/0286 is therefore extant. The technical start comprising demolition of outbuildings either side of the bungalow, also to be removed in due course as part of the permission.

To support the application, the applicant has provided information containing the following:

1. Health and safety documentation which monitored when personnel were on site

2. Quote and Invoice to Sterling Capitol for undertaking demolition works at the site on 02/09/22 and 03/09/23
3. Photographs of residual debris following demolition of outbuildings
4. Archaeologist report confirming that demolition has taken place.

Consultations

Legal – Demolition associated with development in accordance with planning permission 2019/0286 is considered to be a lawful implementation under Section 56 4AA of the 1990 Act as amended. The applicant's evidence that demolition has taken place prior to the expiry date is accepted and is therefore implementation of the planning permission. The grant of a certificate under Section 192 is therefore justified.

Representations

None

Assessment

The LPA can grant a certificate confirming that an existing use of land, or some operational development, or some activity is lawful for planning purposes under 192 (proposed use) under the Town and Country Planning Act 1990.

Section 192 (1) provides that if any person wishes to ascertain whether any proposed use of buildings or other land or any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

Under Section 192(2) if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

The application relates to the planning permission 2019/0286. The key issues within the assessment of this Lawful Development Certificate application is whether appropriate evidence has been presented to establish that demolition has taken place and the permission has therefore been implemented.

In this case, Section 192 is relevant in that if lawful commencement has taken place then the future activities on the site under permission 2019/0286 will be lawful.

Section 56(2) states development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

Para 4 (aa) in subsection (2) "material operation" includes any work of demolition of a building.

Documentation has been provided, and the Legal officer is satisfied that the 2019/0286 permission has been implemented by the demolition of outbuildings on the site prior to the expiry of the permission.

The applicant is seeking confirmation that development has commenced and that permission 2019/0286 is now extant. The Local Planning Authority is satisfied that demolition took place on 02/09/22 and 03/09/22. Under Section 56 (4)AA of the Act (as amended), demolition is a material operation, which constitutes commencement of development and it is confirmed that lawful implementation has therefore taken place prior to the date of expiry and planning permission 2019/0286 is extant. The issue of a certificate under S192 is therefore justified.

Recommendation: Approve

