

---

**2025/0562**

**Applicant:** Sterling Capitol

**Description:** Application for a lawful development certificate for the implementation of building works relating to application 2022/0916 Development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation (Reserved matters of the outline part of hybrid planning permission 2019/0286 seeking approval of external appearance, landscaping, layout and scale (amended plans).

**Address:** Higham Lane, Higham, Barnsley

---

### **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.

Originally the site comprised two fields in agricultural use that were divided by a hedge, however, works commenced on site in June 2025 including site clearance, initial earth movements and excavation.

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 application 2019/0286.

### **Planning History**

2019/0286 - *Hybrid planning application for an extension to Capitol Park comprising a) development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) 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 – approved subject to conditions*

2022/ENQ/00323 - *Non material amendment for amendments to conditions 3 (engineering operations proposed to be undertaken adjacent to the motorway cutting), 8 (archaeology) and 10 (A scheme of intrusive site investigations/gas monitoring) relating to hybrid planning permission 2019/0286 so that demolition is exempted from the pre-commencement requirements- Hybrid planning application for an extension to Capitol Park comprising a) development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) 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) - Approved*

2022/0897 - *Details of conditions 4 (noise management plan), 5 (dust management plan), 7 (construction management plan), 9 (trees) and 12 (highway condition survey) of planning permission 2019/0286 -Hybrid planning application for an extension to Capitol Park*

*comprising a) development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) 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) - Approved*

*2022/1107 - 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 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) 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) – approved*

*2022/0916 - Development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation (Reserved matters of the outline part of hybrid planning permission 2019/0286 seeking approval of external appearance, landscaping, layout and scale) (Amended Plans) – approved subject to conditions*

*2024/0824 - Variation of conditions 3 (Engineering operations to motorway cutting), 10 (site investigation and monitoring) and 22 (foul and surface water drainage) of application 2019/0286 - Hybrid planning application for an extension to Capitol Park comprising a) development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) 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) – Approved*

*2025/0145 - Discharge of condition 16 (Arboricultural Method Statement) of planning application 2024/0824 - Discharged*

*2025/0184 – Discharge of conditions 13 (Construction Traffic), 14 (Noise Management Plan), 15 (Dust Management Plan) and 17 (Construction Method Statement) of planning application 2024/0824 - Discharged*

*2025/0236 – Part discharge of conditions 20 (condition survey) and 33 (engineering, drainage & Street lighting) relating to 2024/0824 - Discharged*

*2025/0255 – Details of condition 10 (measures to control parking) of planning application 2022/0916 - Discharged*

*2025/0290 - Discharge of condition 8 (Written Scheme of Investigation) of planning application 2024/0824 - Discharged*

### **Proposed Development**

The applicant has applied for a lawful development certificate for an existing use on the basis that application 2022/0916 has been implemented and is therefore and extant consent. The applicant states all necessary conditions have been complied with, and work has been undertaken to ensure a 'material start' on site has been made. The works referenced and evidence submitted includes;

- Works commenced on site on 12 June 2025, evidenced by a series of photographs taken by Sterling Capitol (Appendix 2) supported by that day's newspaper, dated 12 June 2025. Works on that day comprised site clearance, initial earth movements and excavating to achieve the necessary levels, as shown in the photographs.
- Commencement of works on 12 June 2025 is also evidenced by an invoice from the contractor to Sterling Capitol (Appendix 3) which confirms the start date of 12 June 2025. Delivery of hardcore to the site is also evidenced as taking place on the same date (Appendix 4).
- Photos taken by the principal contractor show site progress as of 13 June 2025 (Appendix 5), again supported by that day's newspaper, dated 13 June 2025. The extent of works, and depth of excavations are shown, with hardcore being laid to form the access road base

## Consultations

Legal – No comments

## 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, s/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 planning application 2022/0916 '*Development of 2no warehouses (floorspace of 9,755m<sup>2</sup> and 7,804m<sup>2</sup>) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation (Reserved matters of the outline part of hybrid planning permission 2019/0286 seeking approval of external appearance, landscaping, layout and scale) (Amended Plan)*'. The key issues within the assessment of this Lawful Development Certificate application is whether appropriate evidence has been presented to establish that the development approved under that application has been implemented and a 'material start' on site has been made.

In this case, Section 192 is relevant in that if lawful commencement has taken place then the future activities on the site under permission 2022/0916 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, the digging of a trench which is to

contain the foundations, or part of the foundations, of a building, 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), any operation in the course of laying out or constructing a road or part of a road;

Dated documentation has been provided demonstrating works including site clearance, earth moving, excavation and hardcore being laid to form the access road base prior to the expiry of the permission.

The applicant is seeking confirmation that a material start on site has been made and that permission 2022/0916 has been implemented and is now extant. The Local Planning Authority is satisfied that relevant works which fall under section 56(2) took place on site prior to the expiration of the permission. Under Section 56 (4)(d) of the Act (as amended), the laying out or constructing a road or part of a road is a material operation, which constitutes commencement of development. The issue of a certificate under S192 is therefore justified.

**Recommendation: Approve**