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Basingstoke and Deane Borough Council
F.A.O – Ms Fullarton, Planning and Development Services
Civic Offices
London Road
Basingstoke
Hampshire
RG21 4AH

Our Ref: MW/20044/23030
Your Ref: 20/01744/FUL

6th October 2023

Submitted through Planning Portal only

Dear Ms Fullarton

Re: Newtown Court Farm, Harts Lane, Newtown, Newbury, RG20 9AP

Further to your approval of details pursuant to pre-commencement conditions 5 and 14 on planning permission 20/01744/FUL on 15th September 2023 (reference 23/01729/FUL), please find enclosed an application for a certificate of lawfulness to confirm that work subsequently carried out on 29th September 2023 constituted a lawful implementation of planning permission 20/01744/FUL. The following is provided with this application:

- Completed Application Form;
- Location Plan (Drawing No. 1415B 100);
- Notice Planning Permission (Reference 20/01744/FUL);
- Notice of Approval of Details Reserved by Conditions 5 and 14 on Planning Permission 20/01744/FUL);
- Email from the Council Regarding £Nil CIL Liability Dated 8th September 2023;
- Setting Out Plan (Drawing No. 2022i 428kk);
- Photograph 1 – Trench Dug;
- Photo 2 – Width of the Trench Dug;
- Photo 3 – Depth of the Trench Dug;
- Photo 4 - Depth of the Trench Dug Depth of Trench;

Background

The Council granted planning permission referenced 20/01744/FUL for the development of a new dwelling with associated access and landscaping on 13th November 2020.

Condition 2 of this permission required the approved development to begin before the expiration of 3 years from the date of the planning permission (i.e. by 13th November 2023). However, conditions 5 and 14 of this permission required the submission and approved of details prior to development commencing.

Details pursuant to conditions 5 and 14 were submitted to the Council on 13th July 2023 and these details were approved on 15th September 2023.

I emailed the Council's CL Team on 5th September 2023 to seek confirmation that no CIL forms were required because the development comprised a single dwelling and Jaqui Burrow, the Council's Planning and Infrastructure Monitoring Assistant, confirmed in an email on 8th September 2023 that the single dwellings have a £nil charge for CIL and no further action was therefore required with respect to CIL.

Legal Context

Section 56 of the Town and Country Planning Act 1990 (TCPA90) as amended refers to the time when development of land shall be taken to be initiated.

Section 56(1)(a) of the TCPA90 states that in the case of this development which consists of operations, it is taken as being initiated at the time when those operations begin.

Section 56 (2) of the TCPA90 states that 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.

Section 56 (4) (b) of the TCPA90 states that "material operation" means "the digging of a trench which is to contain the foundations, or part of the foundation, of a building."

Case for Lawfulness

On 29th September 2023, my clients' contractor began the approved development by digging trenches to contain the foundations of the dwelling. A Setting Out Plan was used to ensure the trenches were dug in the correct position as per the approved plans and this Plan, together with dated photographs of the trenches, are provided this application.

Conclusion

Evidence is provided with the application to prove that material operations began on 29th September and the Council is therefore respectfully requested to issue a Certificate of Lawfulness to confirm that planning permission 20/01744/FUL has been lawfully implemented in accordance with condition 2.

Should you have any queries in respect of this application, please do not hesitate to contact me. Otherwise, I look forward to receiving the Certificate of Lawfulness as soon as possible.

Yours sincerely



Matt Williams DipTP MRTPI
Planning Consultant/ Partner

