

10 October 2023

Development Management
Cheshire West and Chester Council
4 Civic Way
Ellesmere Port

Dear Sir / Madam

Application for a Lawful Development Certificate for the development of planning application 20/00923/FUL – Conversion of traditional agricultural buildings into six dwellings with associated parking and gardens and the conversion of two steel portal framed agricultural buildings into car ports and demolition of all other redundant modern agricultural buildings at Manor Farm, Old Lane, Davenham, Northwich, CW9 7SD.

I write to you on behalf of my client The Trustees of the DM France-Hayhurst Foundation in support of an application for Lawful Development Certificate at Manor Farm, Davenham.

Permission was granted on October 13th, 2020, for the conversion of traditional agricultural buildings into six dwellings with associated parking and gardens along with the conversion of two steel portal framed agricultural buildings into car ports and the demolition of all other redundant modern buildings (20/00923/FUL). This application seeks to confirm that the works to implement the planning permission will be lawful due to the development having been commenced through the digging of foundations on site.

Context

Manor Farm is situated off of Old Lane, Davenham. The area is predominantly rural in character, however, permission was granted for the conversion of the traditional agricultural buildings into six residential dwellings, complying with local and national planning policies.

Below is an image of Manor Farm which has been taken from Google Maps. The image clearly shows the site layout and the rural surroundings of the farm.



Source: Google Maps, 2023

Development Works

The location plan indicates the location of the site and the buildings which are to be converted into dwellings, the car ports and those that are due to be demolished.

The below photographs to this application are dated October 6th, 2023, which show the Coach House and surrounding land as existing and photo evidence showing the foundations that have been dug out as a way to commence the planning approval. These photographs confirm that the works had taken place prior to the expiration of the planning permission on 13th October 2023.

The footings have been dug within the red line location plan, therefore the land is included within the planning permission, and this plan is referenced in Condition 2 of the approval decision notice. The footings have been done where the proposed development will take place and therefore is a direct commencement of development beginning on site.

Planning Law

Section 192 of the Town and Country Planning Act 1990 allows for the clarification of the planning position on proposed development through the submission of an application for Certificate of Lawful Use.

The pre-commencement planning condition 8 of planning application 20/00923/FUL was discharged on the 16th of December 2023 the works to commence the permission which shall be described in more detail below were carried out in full compliance with all relevant planning conditions.

Section 56 (4) of the TCPA 1990 (as amended) states that a material operation includes (b) the digging of a trench which is to contain the foundations, or part of the foundations of a building.

Case Law has confirmed that the scope of such works does not need to be substantial merely greater than de-minimis. In this case, the planning permission included the extension to a building for which a foundation trench has been dug as per the attached plan and photographs below prior to the expiry of the application on the 13th of October 2023. The works carried out are clearly beyond de-minimis and therefore meet the criteria in section 56. Consequently, the development of the planning permission to convert the barns to dwellings would be lawful (subject to compliance with planning conditions).

Commencement Photographs, 6th October 2023



Figure 1: Photo taken at Manor Farm on the 6th of October 2023, before the commencement works began.



Photo 2 – Showing the Coach House before commencement began on the 6th of October 2023.



Figure 3 – Photo taken at Manor Farm depicting the site before commencement began on the 6th of October 2023.



Figure 4 – Showing the beginning of the commencement works on the 6th of October 2023.



Figure 5 – Photo showing the commencement work taking place at the coach house.



Figure 6 – The site during the commencement works.



Figure 7 – Showing the removal of vegetation behind the Coach House.



Figure 8 – Showing operations on site to create the footings.

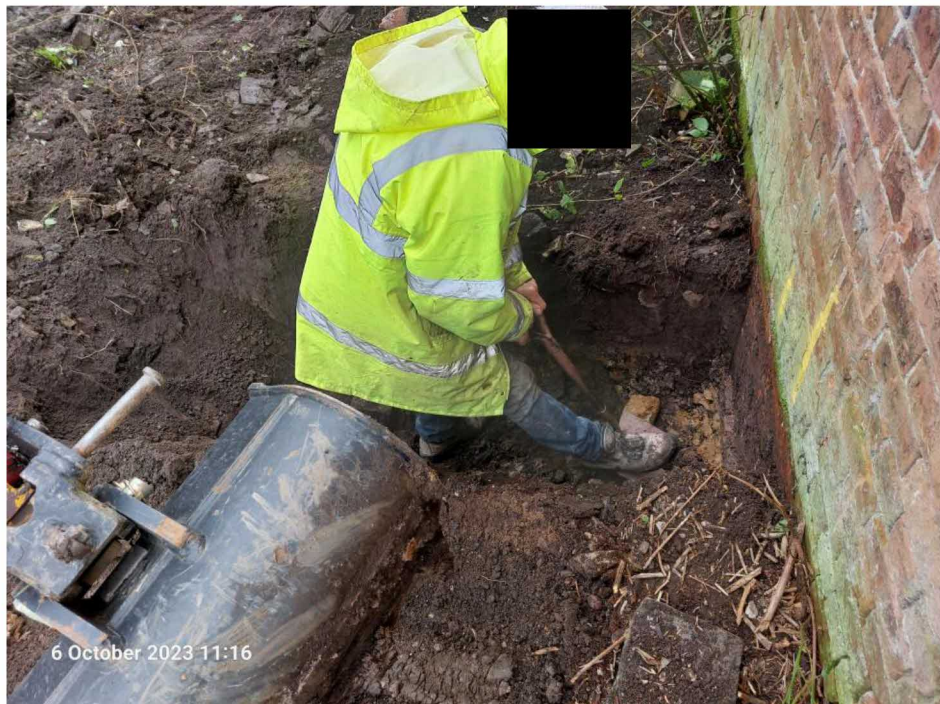


Figure 9 – Showing the footings being dug at the Coach House on the 6th of October 2023.



Figure 10 – The footings dug out at the Coach House during commencement works on October 6th,2023.



Figure 11 – The footings upon the completion of commencement works at Manor Farm.



Figure 12 – The dug out footings demonstrating commencement on site at Manor Farm.

The documents attached to this planning application to support it are:

- Application Form
- Location Plan
- Photos prior to commencement
- Photos once commenced
- Plan demonstrating where the commencement works have taken place.

Conclusion

As the supporting evidence shows, the development was commenced lawfully through establishing concrete foundations before the planning expiration date on the 13th of October 2023. Dated photographic evidence from the 6th of October 2023 shows that the application has been commenced.

The evidence is clear and compelling and therefore we respectfully await for the granting of the Lawful Development Certificate.

Yours sincerely,

Sophie Cragg MSc

For and on behalf of Fisher German LLP

