



Development Management,
North Hertfordshire District Council,
Council Offices,
Gernon Road,
Letchworth,
Herts,
SG6 3JF

Our Ref: UK0041856.2910

4 June 2025

Dear Sir/Madam,

**Application for Certificate of Existing Lawful Use of Implementation of Planning Permission
21/03016/FP**

Hitchin Garden Centre, Cambridge Road, Hitchin, Hertfordshire, SG4 0JX

We write on behalf of David Lazenby to submit a Certificate of Lawfulness of Existing Use or Development (CLEUD) pursuant of Section 191 (1) (b) of the Town and Country Planning Act 1990 to demonstrate that a material start has been made to planning permission 21/03016/FP, relating to a side extension at Hitchin Garden Centre, prior to its expiry on the 16th December 2024.

This CLEUD is supported with the following documents and evidence to demonstrate that there has been a material start:

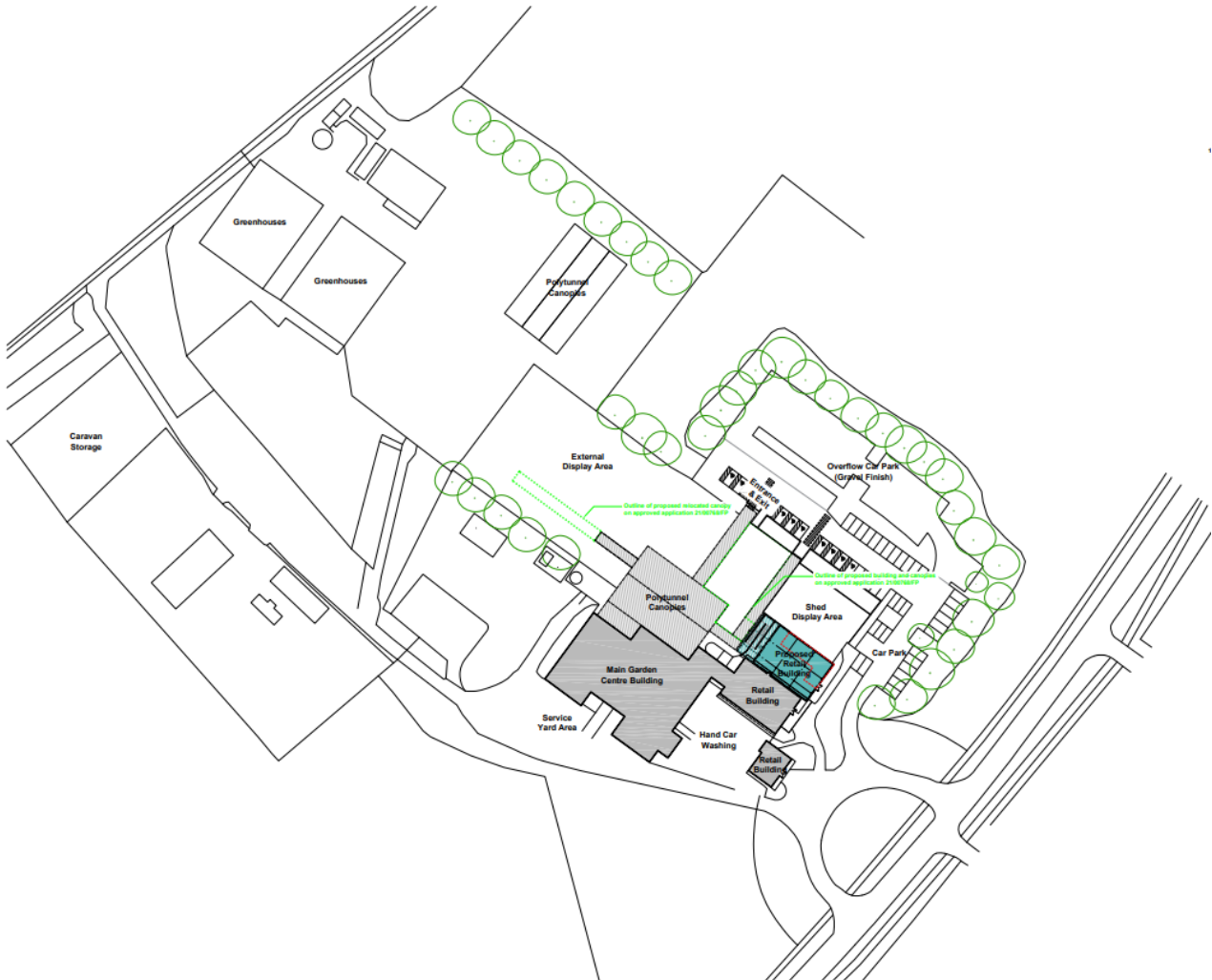
- Completed Application Form;
- Application Fee of £383 (inclusive of VAT and Planning Portal Service Charge) calculated on the basis that the site area for the trench is 1.96sqm and would be considered 'other existing use/operation- other than winning and working of minerals';
- Site Location Plan;
- Decision Notice for planning permission 21/03016/FP (**Appendix A**);
- Initial Notice issued to North Hertfordshire District Council as required by Section 47 of the Building Act 1984, completed by Quadrant Building Control (**Appendix B**);
- Foundations Plan, prepared by Polybuild (**Appendix C**); and
- Dated Photographs showing the works carried out (**Appendix D**).

Background and Planning History

Planning permission reference 21/03016/FP was granted on 16th December 2021 for the following development:

"Side extension to provide additional retail building following demolition of existing detached outbuilding"

The permission granted an infill extension to the existing main Garden Centre retail building, to replace an existing external sales area and canopy. The approved extension proposed a floor area of 260sqm and is shown in blue in context of the wider Hitchin Garden Centre below.



Condition 1 of the planning permission (attached at **Appendix A**) outlines that the development shall begin within 3 years from the date of the permission (i.e. by 16th December 2024).

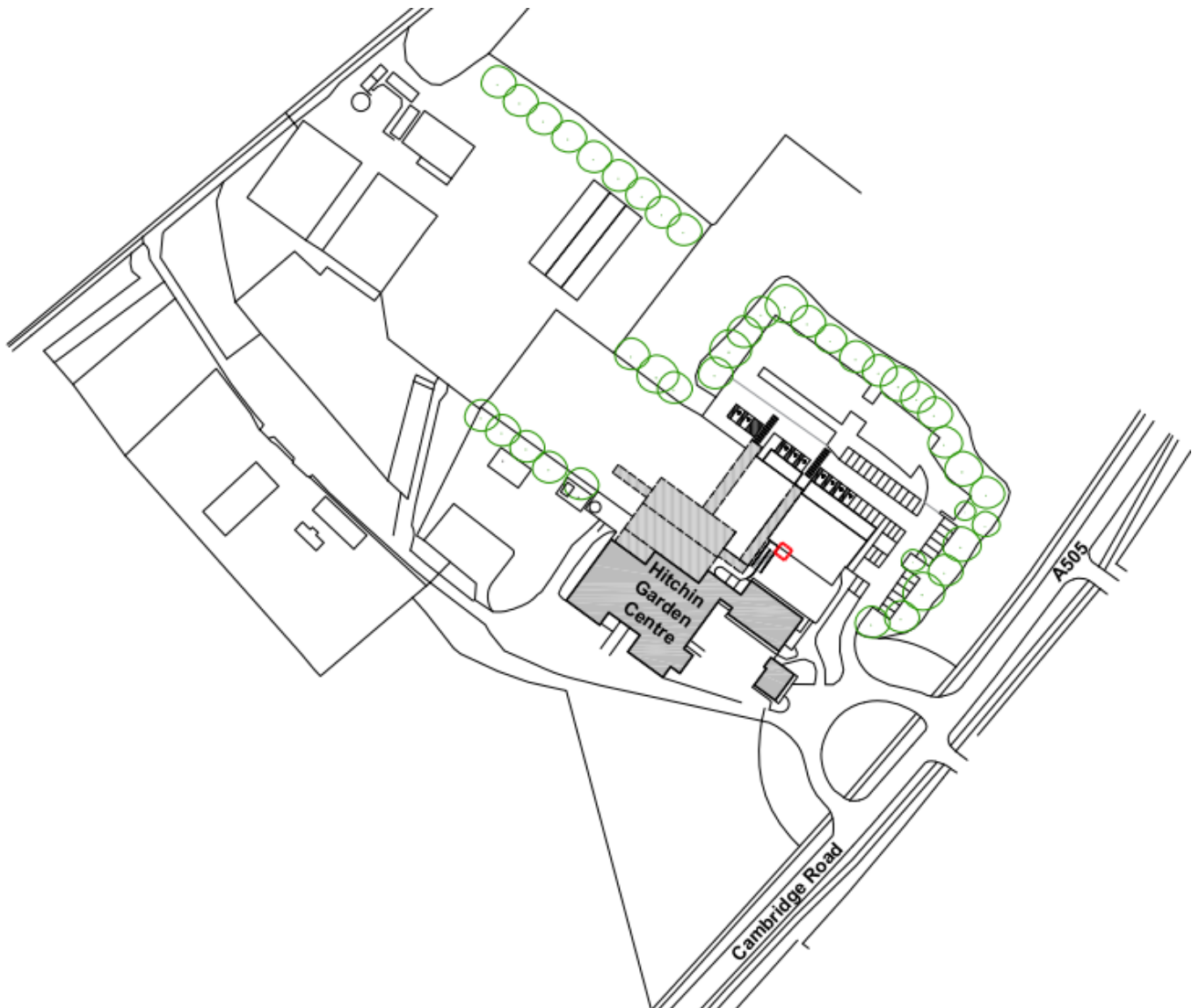
The only other condition attached to the decision notice is Condition 2 which highlights that the development shall be carried out in accordance with the plans submitted within the application.

However, the permission does not contain any pre-commencement conditions or any other conditions, which require formal discharge by the Council.

Commencement of Development

A Building Control initial notice was served to North Hertfordshire District Council on 27th February 2023 prior to the works taking place (**Appendix B**).

Works to commence the planning permission were then undertaken between 22nd – 27th March 2023 and included one foundation trench being dug of 1.4m x 1.4m x 1m and the concrete foundation base laid in accordance with the approved plans for the extension and as shown on the dated photographs in **Appendix D**. The foundation trench and concrete base is also shown on the Foundations Plan prepared by Polybuild (**Appendix C**) which is located adjacent to the existing ramp and its location is shown outlined in red below.



The works to dig the trench and fill with the concrete foundation base constitute a 'material operation' as defined in Section 56 of the Town and Country Planning Act 1990 which defines 'material operation' as:

- (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.

It is well established within Case Law including Malvern Hills DC v SSE [1982] that the test for commencement is not the quantum of work undertaken, but whether the work was related to the planning permission involved.

The case of Connaught Quarries Ltd v SSETR & East Hants DC [2001] also confirms that for the purposes of keeping a planning permission alive the material operation must be more than de minimis.

However, it has confirmed by the courts in High Peak Borough Council v SoS and Courtdale Developments Ltd [1981] that once dug it is not necessary for a trench to remain open.

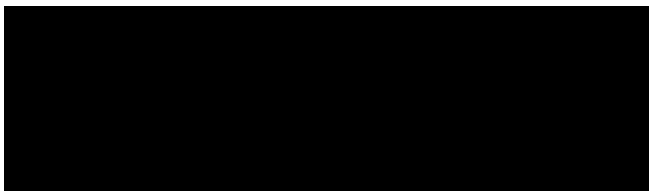
In this instance, part b (**in bold**) of Section 56 applies as the foundation trench forms part of the foundations for the approved extension, and is considered to be more than de minimis, and therefore the works undertaken constitute a material operation to implement planning permission 21/03016/FP.

Conclusion

In summary, the dated photographs from 22nd and 27th March 2023 and the building control notice submitted to the Council prior to this on 27th February 2023 clearly demonstrate that the development was commenced before the expiry of planning permission 21/03016/FP on 16th December 2024. This permission, therefore, remains extant.

I trust that the information submitted will enable you to register this CLUED application and I look forward to receiving written confirmation of this is due course. In the meantime, should you have any queries, or require any additional information, please do not hesitate to contact me.

Yours faithfully



Andrew Astin

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order
2015

DECISION NOTICE

Correspondence Address:

Mr David Lazenby
6 Dukes Avenue
Ham
Kingston Upon Thames
KT2 5QY

Applicant:

Mr David Lazenby

PARTICULARS OF DEVELOPMENT

Application: 21/03016/FP

Proposal: Side extension to provide additional retail building following demolition of existing detached outbuilding

Location: Hitchin Garden Centre, Cambridge Road, Hitchin, Hertfordshire, SG4 0JX

Plan Nos: A-PL-001 A-PL-002 A-PL-003 A-PL-004 A-PL-005 A-PL-010 A-PL-011 A-PL-012 A-PL-013

PARTICULARS OF DECISION

In pursuance of its powers under the above Act and the associated Orders and Regulations, the Council hereby **GRANT PERMISSION** for the development proposed by you in your application received with sufficient particulars on 25 October 2021, subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed:



Development Management
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth
Herts
SG6 3JF

Development & Conservation Manager

Date: 16 December 2021

The Council's Privacy Notice is available on our website: <https://www.north-herts.gov.uk/home/council-data-and-performance/data-protection/information-management-gdpr>

NOTES

- 1 **Failure to satisfy conditions may invalidate this permission and/or result in enforcement action. Particular attention should be paid to the requirements of any condition in bold.**
- 2 Applicants will need to pay a compliance fee where they request confirmation in writing of any planning consent, agreement or approval (commonly known as discharge of conditions) required by one or more conditions or limitations attached to a grant of planning permission.

- 3 The fee is £116 per request or £34 where the permission relates to an extension or alteration to a dwellinghouse or other development in the curtilage of the dwellinghouse.

The request can be informal through the submission of a letter or plans, or formal through the completion of an application form and the submission of plans. Any number of conditions may be included on a single request. The form is available via the Council's website:

www.north-herts.gov.uk/home/planning/planning-applications/submit-planning-application

- 4 If the development hereby permitted is one that will require a new postal address/es then please contact the Council's **street naming and numbering service** on 01462 474431 or email SNN@north-herts.gov.uk who will advise you on how to apply for the new address/es.

Any proposed sales and/or marketing name to be adopted by the developer should be forwarded to the **street naming and numbering service**, prior to any publication of the site details and sales information.

- 5 If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely

because the local planning authority based their decision on a direction given by him.

6 **Purchase Notices**

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

- 7 The District Council and County Highway Authority wish to ensure that, in the implementation of the development, hereby approved, the highway verge adjacent to the property is not damaged or does not become unsightly due to the stationing of skips, parking of vehicles, storing of building materials etc thereon. Your attention is, therefore, drawn to the provisions of Section 131 of the Highways Act 1980 and to the Hertfordshire County Council Bylaws 1955 (specifically relating to grass margins and verges in Letchworth Garden City) by virtue of which such actions, unless authorised by the prior grant of a licence, constitute a prosecutable offence. Persons responsible for undertaking the development and any associated works are, therefore, strongly encouraged to take appropriate steps to ensure that no breach of the said legislation occurs during the course of such activities. In the event of any damage being caused it will be expected that suitable reinstatement is undertaken upon completion of the development. Failure to do so could also result in legal action being pursued. To obtain information regarding the issue of licences, contact Hertfordshire Highways, Hertfordshire County Council, County Hall, Pegs Lane, Hertford, SG138DQ or telephone 0300 1234 047.

8 **Cadent Gas Informative:**

Cadent Gas own and operate the gas infrastructure within the area of your development. Contact our Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email plantprotection@cadentgas.com Alternatively you can register on www.beforeyoudig.cadentgas.com This service is free of charge.

THIS PLANNING PERMISSION DOES NOT CONSTITUTE APPROVAL UNDER BUILDING REGULATIONS AND IS NOT A LISTED BUILDING CONSENT OR

CONSERVATION AREA CONSENT. IT DOES NOT CONVEY ANY APPROVAL OR CONSENT WHICH MAY BE REQUIRED UNDER ANY ENACTMENT, BYELAW, ORDER OR REGULATION OTHER THAN SECTION 57 OF THE TOWN AND COUNTRY PLANNING ACT 1990.

Appendix B- Initial Building Control Notice



Section 47 of the Building Act 1984 ("The Act") The Building (Approved Inspectors etc.) Regulations 2010 ("The Regulations")

To	North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF	Ref: 23-90508 Date: 27/02/2023
1	This Notice relates to the following work: Description of work: Formation of new retail unit, plus associated works (see exclusions**) Location: Hitchin Garden Centre, Rose Gardens, Cambridge Road, Hitchin, Hertfordshire, SG4 0JX Use of Building: Retail	
2	The Approved Inspector in relation to the work is: Quadrant Building Control, 11 Red Lion Street, Stamford PE9 1PA	
3	The person intending to carry out the work is: Name: BGC South Ltd Address: 6 Dukes Avenue, Kingston upon Thames, Surrey, KT2 5QY	
4	The work [does]/[does not] concern a new dwelling	
5	With this Notice the following documents, which are those relevant to the work described in this notice: (a) [In the case of the erection or extension of a building, a plan to a scale of not less than 1:1250 showing the boundaries and location of the site and (where the work includes the construction of a new drain or private sewer) a statement – (i) As to the approximate location of any proposed connection to be made to the sewer, or (ii) If no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool;]* (b) [in the case of a new dwelling– (i) a statement whether or not one or more, and if so which, of the following optional requirements in the Building Regulations 2010 applies to the building work– (aa) regulation 36(2)(b) (optional water efficiency requirement of 110 litres per person per day); (bb) Schedule 1 Part M optional requirement M4(2) (category 2 accessible and adaptable dwellings); (cc) Schedule 1 Part M optional requirement M4(3) (category 3 wheelchair user dwellings); or (ii) a statement that planning permission has not yet been granted for the work, and that the information required by subparagraph (b)(i) will be supplied as soon as is reasonably practicable after that permission is granted;] (c) [a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it.] (d) [in the case of the erection of a dwelling, or a building that is to contain one or more dwellings– (i) a statement giving details of any public electronic communications network in relation to which a connection is to be provided,	



- (ii) ~~if an exemption in regulation 44ZB of the Building Regulations 2010 is proposed to be relied on, a statement giving details in support of the exemption,~~
- (iii) ~~if regulation 44ZC of the Building Regulations 2010 is proposed to be relied on, a statement giving details of the matters mentioned in regulation 44ZC(6)(a) and (b) of those Regulations and, if paragraph RA1(1)(c)(i) or (ii) of Schedule 1 to those Regulations is also proposed to be relied on, evidence of the steps taken to establish whether, and if so where, a distribution point for a gigabit-capable public-electronic communications network (as defined by regulation 44C of those Regulations) is likely to be installed, in a location relevant for the purposes of paragraph RA1(1)(c) of that Schedule, within the period of two years beginning with the day on which the notice is given.]~~

(*) With reference to 5 (a) we would point out that there will be no new connection to the main sewer as all drains are taken to existing manholes.

Quadrant Building Control hereby declares that:-

- 6 The work [is]/[is not] minor work 'Regulation 9(5) of the Regulations'
- 7 [We, Quadrant Building Control, do not and will not while the notice is in force, have any financial or professional interest in the work described*].
- 8 The approved inspector [will]/[will not] be obliged to consult the fire and rescue authority by regulation 12 of the Regulations.
- 9 [We, Quadrant Building Control, undertake to consult the fire and rescue authority before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above.]
- 10 The approved inspector [will]/[will not] be obliged to consult the sewerage undertaker by regulation 13 of the Regulations.
- 11 [We, Quadrant Building Control, undertake to consult the sewerage undertaker before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above.]
- 12 We, Quadrant Building Control, are aware of the obligations laid upon us by Part 2 of the Act and by regulation 8 of the Regulations.
- 13 We, Quadrant Building Control, are an approved inspector for the purposes of Part 2 of the Act and in respect of the work described in this notice.
- 14 A copy of the notice of approval as an approved inspector under regulation 5 of the Regulations in relation to the work described in this initial notice is on the register kept by the body designated under regulation 3 of the Regulations.

(*) Financial or professional interest has the meaning given in Regulation 9 of the Regulations



Name: Stephen Coffey
Signed:



Quadrant Building Control

Date: 27/02/2023

Name: Mr David Lazenby
Signed:



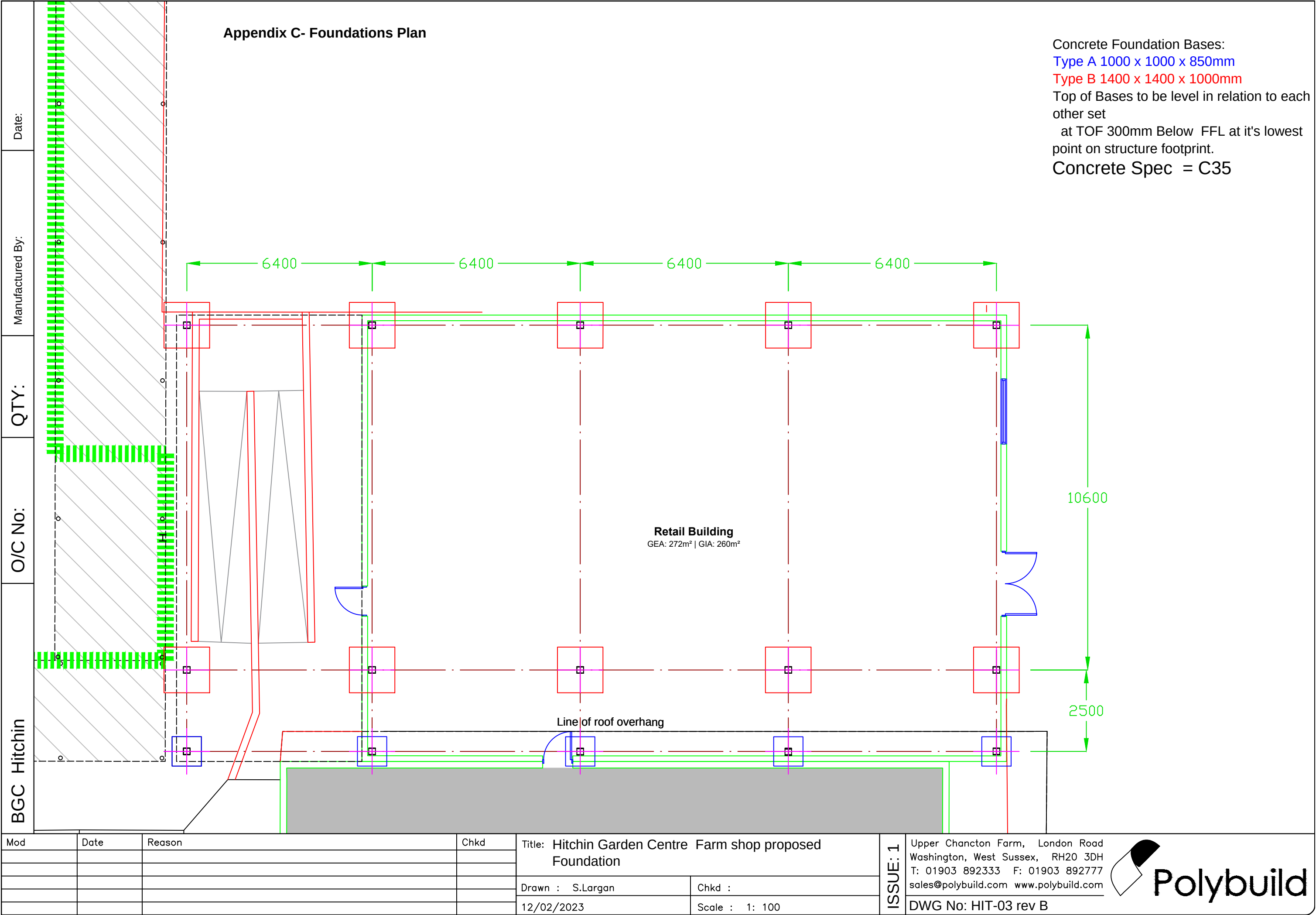
PP: Kathryn Sharp

For and on behalf of BGC South Ltd as
authorised agent for Person intending to carry
out the works.

Date: 27/02/2023

**Excluding any works carried out in accordance with the self-certified scheme. As defined in schedule 3 (competent person scheme) Building Regulation 2010 as amended.

**Excluding any works carried out under the Gas Safety (installation and use) Regulations 1998





Info



IMG_4827



22

March

2023

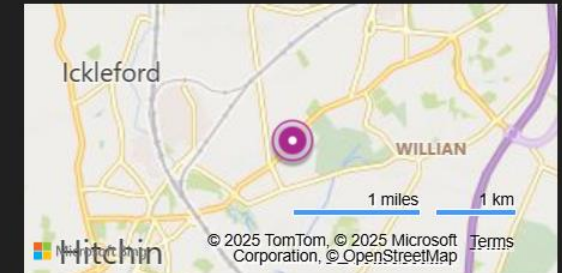


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Letchworth



Size Info

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Device Info

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ISO 32 EXP 0 No flash, compulsory



Source



Info



MG_4826



22

March

2023

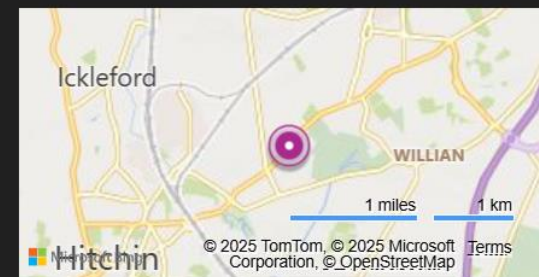


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45



Letchworth



Size Info

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Device Info

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ISO 32 EXP 0 No flash, compulsory



Source



Info



IMG_4825



22

March

2023

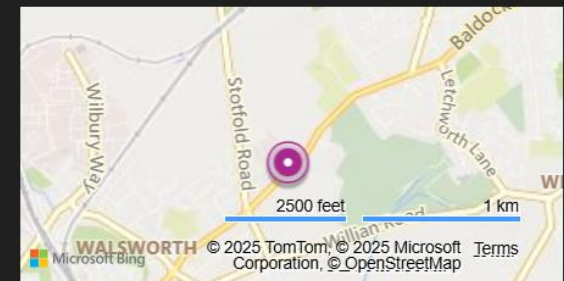


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Letchworth



Size Info

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Device Info

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ISO 32 EXP 0 No flash, compulsory



Source



Info



IMG_4857



27

March

2023



10

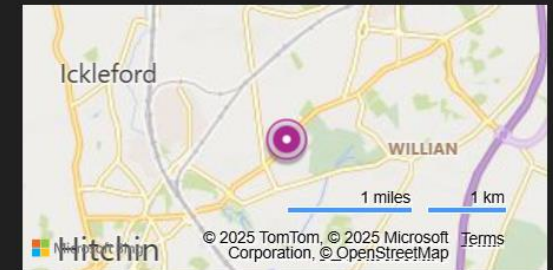
18



Add a description



Letchworth



Size Info

4032 x 3024 3.7 MB 72 dpi 24 bit



Device Info

Apple iPhone 11 4.25 mm f/1.8 1/400 sec
ISO 32 FXP 0 No flash, compulsory

