

DELEGATED FILE NOTE

CASE OFFICER: ...Tom Rea.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/01487/LDCE	Confirmation of material start on site of planning permission Ref: 21/03016/FP - granted on 16.12.2021, (Side extension to provide additional retail building following demolition of existing detached outbuilding)	Hitchin Garden Centre Cambridge Road Hitchin Hertfordshire SG4 0JX

Submitted Plan Nos

A-PL-303 Rev P02

1.0 Policies

2.0 Site History

2.1 21/03016//FP – Side extension to provide additional retail building following demolition of existing detached outbuilding. Granted 16th December 2021

3.0 Representations

3.1 None.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1 The application site is within the Hitchin Garden Centre located on the northwest side of Cambridge Road between Hitchin and Letchworth.

4.2 **Proposal**

- 4.2.1 The applicant seeks confirmation from the LPA through a Lawful Development Certificate (Existing) that a material start has been made to planning application ref: 21/030164/FP and therefore the development has lawfully commenced. The applicant states that the following work has been commenced on site already:

'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'

The application is supported by the following:

- ☐ Initial Building Control Notice dated 27.2.2023.
- ☐ Foundation Plan Hit-03 Rev B
- ☐ Site photographs that show the extent of works carried out on site so far to be read in accordance with the above Building Control Notice
- ☐ Copies of the approved plans

4.3 **Key Issues**

- 4.3.1 The key issues in this case are:

- ☐ Whether the works undertaken constitute the commencement of the permission.
- ☐ Whether the planning permission ref: 21/03016/FP has commenced within the approved 3-year time limit as set out in the decision notice dated 16th December 2021.
- ☐

Whether the works undertaken constitute the commencement of the permission.

- 4.3.2 Section 56 of the Town and Country Planning Act 1990 sets out the conditions required whereby development of land shall be taken to be initiated. Section 56 (4) states that a 'material operation' means (a) 'any work of construction in the course of the erection of a building'; and (b) 'the digging of a trench which is to contain the foundations, or part of

the foundations, of a building'. The works on site have seen the excavation of footings for part of the proposed foundations for the retail building (1.4m x 1.4m x 1m) and filled with concrete. Officers have been to site and seen the situation on the ground, which is as per the attached documentation shows.

As such, it is clear from the information provided that the proposed works necessary to begin the construction of the approved retail building through the digging of footings and laying foundations, can be considered as a material operation and are part of the approved development, in line with Section 56 of the TCPA 1990.

Whether the permission has commenced within the time limit of the permission

- 4.3.3 It is clear from the submitted covering letter, photographs and building control notice that works were commenced and inspected by 27th February 2023 Under the approved permission, the applicants had until 16th December 2024 to commence works, therefore the approved development had commenced within the 3-year time limit.

4.4 **Conclusion**

- 4.4.1 It is clear from the information submitted that planning permission ref: 21/03016/FP has been lawfully commenced within the required 3-year time limit and that the works undertaken meet the minimum requirements to constitute a material operation and to initiate the development as required by Section 56 of the Act. A certificate stating the existing development is lawful may be issued by the LPA.

5.0 **Recommendation**

- 5.1 That the Certificate of Lawfulness for an Existing development be **GRANTED**.

Proactive Statement:

The Local Planning Authority is satisfied that sufficient evidence has been provided to establish that the planning permission ref: 21/03016/FP has commenced within the 3 year time period set out in the decision notice (i.e. by 16th December 2024) and that the works undertaken constitute 'material operations' as defined in Section 56 of the Town and Country Planning Act 1990.

Signed  Anne McDonald Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
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Date: 18 July 2025	
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