



PETER GEORGE TOWN PLANNING

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16 June 2025

Development Control
North Herts Council
Gernon Road
Letchworth Garden City
SG6 3JF

Dear Sirs

Barn to the West of Bedford Road, Holwell, Hertfordshire

Certificate of Lawfulness of Existing Use or Development (Section 191 of the Town and Country Planning Act 1990 As Amended)

Introduction

Peter George Town Planning is instructed by Mr P Coyne, PMC Consultants to prepare and submit an application to North Hertfordshire Council (the Council) for a Certificate of Lawfulness of Existing Use or Development (CLEUD) in respect of the above site.

This application seeks confirmation that planning permission reference **20/01742/FP** has been lawfully implemented by carrying out a material operation at the site, in accordance with the approved plans. The site location plan is attached at **Appendix 1**.

The applicant is therefore seeking a certificate of lawfulness to confirm the lawful implementation of the planning permission.

Administrative Matters

To assist with the determination of this application, we enclose the following information:



- Application form, duly signed and dated
- Requisite fee.
- Statutory Declaration of Paul Coyne
- Appendix 1: Site Location Plan
- Appendix 2: Planning Permission Ref. 20/01742/FP and the Approved Drawings
- Appendix 3: Planning Permission Ref. 18/00127/FP and the Approved Drawings
- Appendix 4: Construction Photographs Dated 15/04/2019
- Appendix 5: Google Earth Imagery
- Appendix 6: Invoices & Receipts
- Appendix 7: Decision Notice Discharge of Conditions Ref. 23/02074/DOC

Background

Planning permission ref. 20/01742/FP was granted on 16 October 2020 for:

“Erection of one 4-bed dwelling following demolition of existing barn (revision of previously approved planning permission 19/01135/FP granted 04.09.2019)”

Copies of the planning permission and the approved drawings are included at **Appendix 2**.

Certificate of Lawfulness

Section 191(1)(b) of the Town and Country Planning Act 1990 (the Act) indicates that an application for a Certificate of Lawfulness can be made to ascertain whether “*any operations which have been carried out, in, on, over or under land, are lawful.*”

To lawfully implement a planning permission, a developer must a) ensure all pre-commencement conditions have been complied with, and b) carry out a ‘material operation’ comprised in the development (as defined in s.56(4) of the Act, before the expiry of the time limit. As set out below, **both** of these requirements have been met.

The application must be decided on the facts of the case and in accordance with planning law. The standard of proof is to assess the application on the balance of probabilities. The facts as set out within this letter and the associated documentation satisfy the burden of proof and on the balance of probabilities,



Commencement of Development

Section 56(1) of the Town and Country Planning Act 1990 (the Act) states that the development of land shall be taken to be initiated ***“if the development consists of the carrying out of operations, at the time when those operations are begun.”***

Section 56(2) of the Act 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.**

“Material operation” is defined in Section 56(4) as including:

- (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;*

S.336(1) of the Act defines **“building”** as including ***“any structure or erection, and any part of a building, as so defined”***. **“Erection”** of buildings is defined to include ***“extension, alteration and re-erection”***.

The Courts have confirmed that very little is required in order for works comprised in a development to constitute a *“material operation”* under s.56(4). The judgement in *Malvern Hills DC v Secretary of State for the Environment (1983)* sets out that s56 should be interpreted benevolently to avoid hardship to a developer who is genuinely undertaking the development.

However, whether a material operation has begun essentially involves consideration of two factors:

- 1) whether the work undertaken in accordance with the grant of planning permission;
and,
- 2) whether the work was more than de minimis*.

*Merriam-Webster definition of 'de minimis': *“lacking significance or importance: so minor as to merit disregard.*



Works Undertaken

Works that have been carried out on the site in connection with planning permission ref.20/01742/FP includes:

- Construction of hardstanding (turning/parking area) to the north- and south-eastern side of the site of the proposed dwelling. This work was carried out in April 2019 in accordance with planning permission ref. 20/01742/FP.*

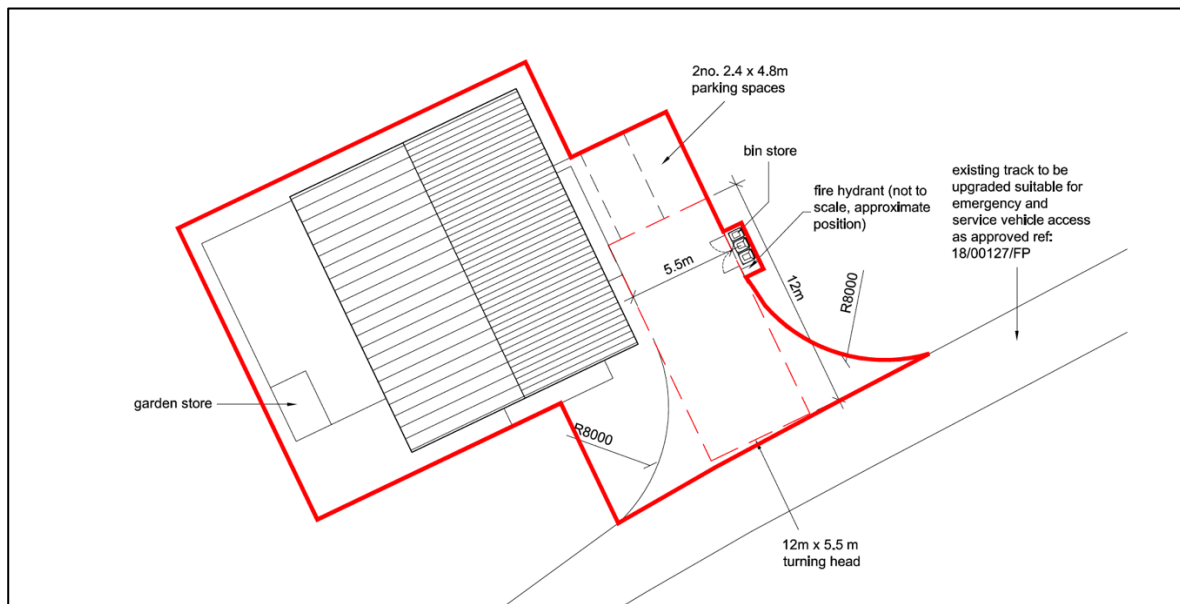


Figure 1 - Approved Drawing PL01D

This work was carried out in conjunction with works involved in upgrading the adjacent track which were carried out in accordance with planning permission ref. 18/00127/FP (copy of the planning permission and the approved plans included as **Appendix 3). The red line for these works did not extend into the application site for application ref. 20/01742/FP.*

Photographic Evidence

Photographic evidence is included at **Appendix 4** showing the works mentioned above.

Google Earth Imagery

Google Earth imagery is included at **Appendix 5**. Imagery dating from March 2017 and May 2018 shows the site in its previous undeveloped state. Imagery from March and May 2020 shows the work described above having been carried out.

Invoices



Other corroborating evidence comes in the form of a selection of invoices relating to materials purchased by Mr Coyne in relation to the above works. These are included at **Appendix 6** and include invoices for the hire of plant equipment, importation of material, and fencing/gates. These further corroborate the dates given for the described work.

Summary

Based on the factual evidence presented as part of this application and summarised above, it is clear that building works commenced on site April 2019 with such works carried out in accordance with the planning permission. The works undertaken amount to a “material operation” for the purposes of s.56(2) of the Act. S336(1) of the Act and were undertaken prior to the expiry of the planning permission.

Pre-Commencement Conditions

Planning permission ref. 21/03527/FP included one pre-commencement condition. The condition was discharged as follows:

Condition	Details	Application Ref.	Approval Date
Condition 4	Land contamination	23/02074/DOC	17/10/2023

As noted above, the relevant pre-commencement condition was discharged prior to the expiry of the planning permission. A copy of the decision notice is attached at **Appendix 7**.

Statutory Declaration

The above is accompanied by a Statutory Declaration attesting to the facts of the situation as they are described above.

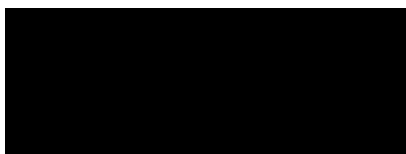
Conclusion

This letter supports an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD) to confirm that planning permission ref. 20/01742/FP was lawfully implemented prior to the expiry of the three-year time limit as required by Condition 1 of the planning permission. The evidence set out and referred to within this letter demonstrates that this is the case.



We trust that the information submitted is in order and allows a certificate to be issued. If you require any further information, please contact me.

Yours sincerely,



Tom Donovan BA(Hons) MA MRTPI, Director
PETER GEORGE TOWN PLANNING