



Supporting Statement

Application for Certificate of Lawfulness

Land to the rear of 330 Leymoor Road, Golcar

Erection of a Single Dwelling

Introduction

This statement has been produced by AKPlanning in support of an application for a Certificate of Lawfulness relating to the implementation of planning application reference 2016/90153 for the erection of a single dwelling on land to the rear of 330 Leymoor Road, Golcar.

It is our opinion that the planning permission has been implemented by the following actions: -

1. Commencement of works shown on the planning approval plans.
2. Commencement of works not shown in the description of the application but that required planning approval.
3. Commencement of works to create the foundations of the dwelling.

Planning History

There are two relevant planning applications, plus a discharge of conditions.

2013/92111 full application for the erection of single dwelling granted 21/01/2014.

2014/91174 discharge of conditions 3, 5, 6 and 7 of permission 2013/92111 – approved.

2016/90153 full application for the erection of a single dwelling granted 23/03/2016. This application was identical to 2013/92111.

The relevant application for this Certificate of Lawfulness is 2016/90153 (We will refer to this as the approval).

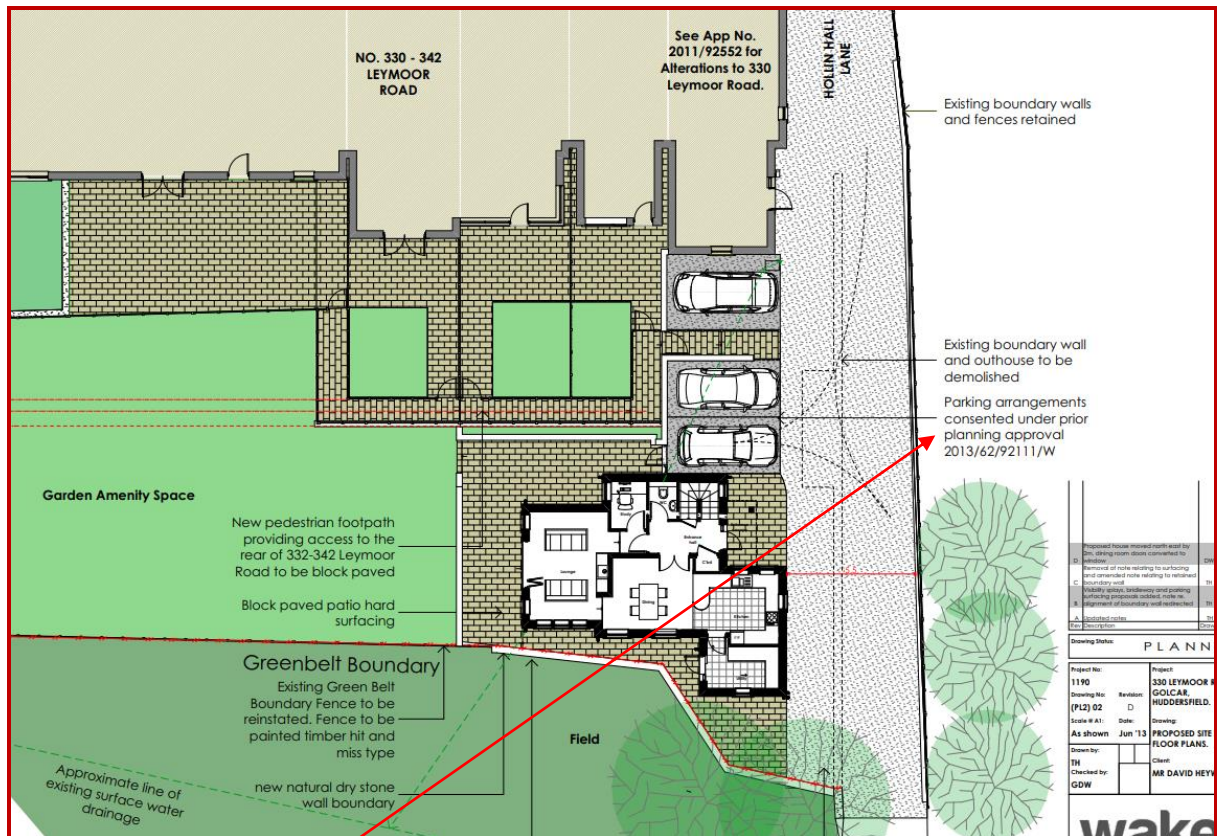
This approval contained 9 conditions none of which were pre-commencement.

Evidence

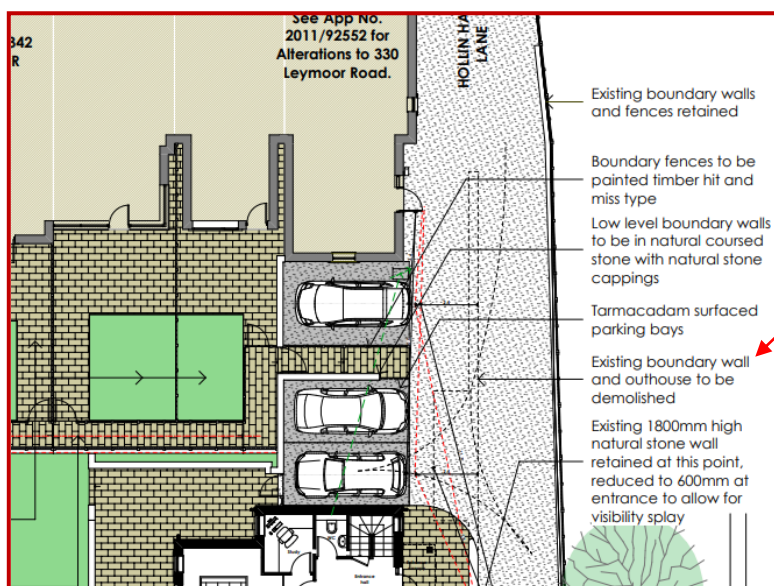
In this section we will document the evidence in support of the three areas we have identified.

1. Commencement of works noted in the application.

The application plans contain the layout details shown below: -



It is noted here on the approved drawing what the parking arrangements are.



Approval 2013/62/92111 shows details of the parking details, the adjacent plan is taken from the approved drawing.

It shows the demolition of an existing wall and outhouse.

Condition 4 of the approval states: -

4. *Prior to the development being brought into use, the approved vehicle parking areas and area adjacent to the west boundary, following demolition of the existing boundary wall as shown on drawing no. (PL2) 02 Rev D shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) the parking areas shall be so retained, free of obstructions and available for access, parking and turning.*

Reason: In the interests of sustainable urban drainage and to accord with the National Planning Policy Framework: Meeting the challenge of climate change, flooding and coastal change.

Plan (PL2) 02 Rev D is the approved drawing for 2016/90153.

If the works shown on the plan and required by condition to be carried out were undertaken, with the intention of creating the parking spaces, within the period of three years after the date of approval then the approval has been implemented.



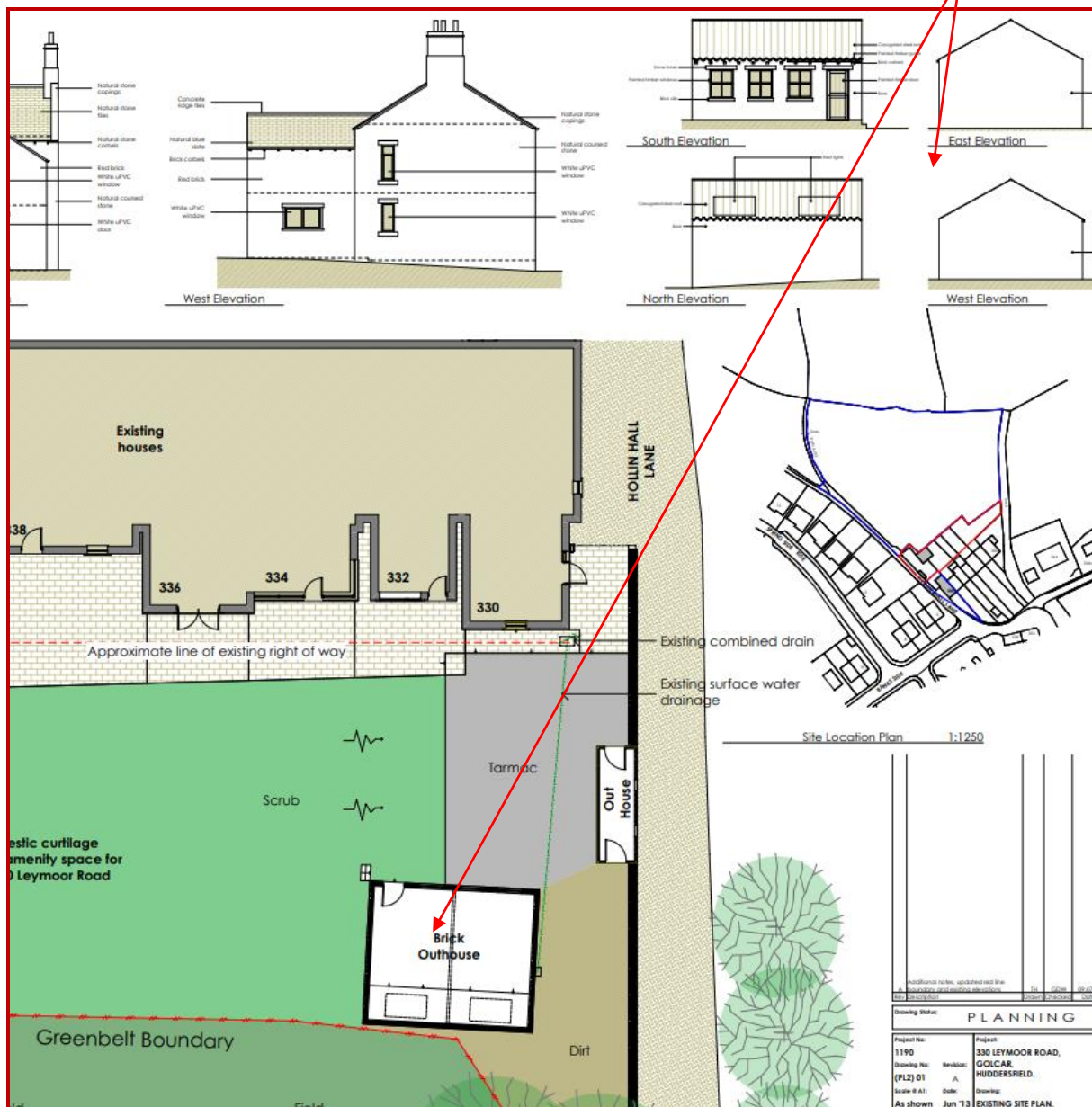
This aerial view is from 2018.

It shows that the wall and outhouse that were originally in place have been removed.

It was necessary to demolish the wall and outhouse to implement the approval. This was done sometime between the approval (2016) and the aerial view (2018). This constitutes commencement of development.

2. Commencement of works not shown in the description of the application but that required planning approval.

The original survey of the site shows that a second large outhouse was located on the site. This was shown on the approved as existing drawings in 2013 (below).



The building measures approximately 110 cubic metres. This building was still on site in 2016 when the approval was given.

Planning permission is required for the demolition of buildings. Section 55 meaning of development states: -

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) For the purposes of this Act “ building operations ” includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder

It is clear that the demolition of this outbuilding required planning permission in its own right and is a building operation.

Section 56 defines the time when development has begun as: -

56 Time when development begun.

(1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

(a) if the development consists of the carrying out of operations, at the time when those operations are begun;

The siting of the new house in the approval is directly over the position of this outhouse, it has to be demolished for the approved dwelling to be erected. The outhouse is shown on the submitted, and approved 23/03/2026, plans (ref (PL2) 01 A). The note below is taken from the approved decision notice, this includes the as existing plan: -

Plan Type	Reference	Version	Date Received
Design & Access statement			
Existing site plan, elevation and location plan	(PL2) 01	A	21 st Jan 2016
Proposed site plan and floor plans	(PL2) 02	D	21 st Jan 2016
Proposed elevations and perspectives	(PL2) 03	D	21 st Jan 2016
Drainage proposals	1114-900 Rev P4		17 th March 2016
Technical drainage details	BV- EW-D-02		17 th March 2016

It is our opinion that the demolition of this large outbuilding formed part of the approval and as such if it was carried out within three years of the approval date then it constitutes commencement of development (Section 56).

The aerial views below are from 2018 (left) and 2020 (right).



They establish that the building was demolished between these two years. The approval was granted on the 23rd of March 2016, it would have expired 3 years later on 23rd March 2019.

On the 8th of January 2019 Assent Building Control inspected the site to enable them to issue an Initial Notice (this is included at appendix A). On this date they took photographs of the site, and these are shown below: -



The bottom two photographs clearly show that the large outbuilding has been demolished. It is therefore our conclusion that the outbuilding was demolished after 2018 (aerial photo evidence) but before 8th January 2019 (Assent building control photos). This is within the three-year commencement period for the approval and of itself commencement of development.

(3) Commencement of works to create the foundations of the dwelling.

We have provided at Appendix A copies of confirmation that Assent Building Control issued an initial notice on the 08/01/2019. This is evidence that strip foundations were cut before the approval expired.

Section 56 also includes the following as evidence as to when development is initiated: -

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building

The trench is evidenced in Appendix A and was laid out to provide foundations for the new dwelling.

It is our opinion that the foundation trench is commencement of development.

Conclusion

Within a period of three years after the approval (i.e. before 23/03/2019) three building operations (as defined by S55 of The Act) have taken place. These are the demolition of the wall and small outbuilding as noted on the plan and within condition 4 of the approval; the demolition of the large outbuilding that required planning permission; and the digging of a foundation trench.

The approval contains no pre-commencement conditions.

Any single one of these actions is of itself sufficient to say that development has commenced. All three together are absolute evidence of commencement.

It is therefore our conclusion that planning permission 2016/62/90153 is extant and works can continue.