

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

**DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF LAWFUL
DEVELOPMENT**

Reference no.: 2023/CL/92465/E

Site: Land Adjacent, The Coach House, 18A, Abbey Road,
Shepley, Huddersfield, HD8 8EP

Description: Certificate of lawfulness to confirm valid
commencement of development approved under 2020/91066 for erection of
detached dwelling with formation of new access within the 3 year time limit given
in condition

Case Officer: Lee Stoney

Decision Reference: EXISTING OPERATIONS GRANT

**I hereby authorise the approval of this application for the reasons set out in
the officer's report and recommendation annexed below in respect of the
above matter.**

Kevin Walton

AUTHORISED OFFICER

Date 11-Jul-2024

Application No: 2023/92465 – Land Adjacent, The Coach House, 18A, Abbey Road, Shepley, Huddersfield, HD8 8EP

For - Certificate of lawfulness to confirm valid commencement of development approved under 2020/91066 for erection of detached dwelling with formation of new access within the 3 year time limit given in condition

Site Description

The application site is land at The Coach House, 18a, Abbey Road North, Shepley and to the west of the existing house. It is a roughly rectangular plot that is approximately 1/3rd of the area at 18a, Abbey Road North, together with narrow strip of land beyond the western boundary wall and is enclosed by drystone walling. The remaining area is part of a wide grass verge adjacent to the northern side of recently constructed cul-de-sac road providing access to gated residential development at Abbey Gardens and larger residential development land on adjacent land to the west. The land is fairly level with gentle slope from east to west across the site

Application Proposal

The application seeks to establish whether planning application 2020/91066 is still extant and lawful.

Salient Planning History

2020/91066 - Erection of detached dwelling with formation of new access—**Approved**

2020/93915 - Discharge conditions 3, 4, 7, 8, 13 on previous permission

2020/91066 for erection of detached dwelling with formation of new access – **Approved**

History of negotiations/amendments received

None

Law

The Town and Country Planning Act 1990 Section 55 & 56.

Evidence Submitted

Application is supported by photograph evidence of a material operation (see below) having been carried out, namely the construction of a trench for the dwelling prior to the expiry of the permission. The inspection report is dated 12/5/2023, a day after the material operation took place. Further evidence was later submitted by Paul Butler by an email dated the 4/06/2024 which shows the trench partially backfilled, which was done for health and safety purposes.

Assessment:

Section 56 of the Town and Country Planning Act 1990 (as amended) "Time when development begun" states that a "material operation" means:

"(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."

(my emphasis added).

I am satisfied from the evidence that a material operation was, namely under S56(b), carried out on the 11/05/2023 which is before the expiry date of the permission which was the 19/08/2023. These works appear consistent with the approved plans. Pre-commencement conditions and others were approved and discharged under application number 2020/93915 prior to this event.

There is a question about the trench being backfilled and whether this would be comprised in the ultimate development for the erection of a dwelling. The evidence shows that the trench is partially backfilled, this shows that the trench is still present and would be comprised in the development with the removal of the fill material to pour the foundations. This is different from a trench being dug and completely backfilled and the land returned to its previous condition.

Conclusion

All relevant pre-commencement conditions and others have been discharged prior to the expiry of the permission. A material operation was subsequently carried out, in this case the digging of a trench to contain the foundations of the dwelling, prior the expiry of the permission. The permission is still extant.

Recommendation: Approve

Authorisation - Delegated Powers Application

Number: 2023/92465

Officer Recommendation: Approve

Plans and specifications schedule:

Report dated:

Plan Type	Reference	Version	Date Received
Inspection Report from Assent Oculus	-	-	26/04/2023
Photo montage from Paul Butler	-	-	04/06/2024

19/07/2024

