Planning Statement to support the application for

Certificate of Lawfulness of Proposed Use or Development

At Birkby Lodge, 48, Birkby Lodge Road, Huddersfield, HD2 2BG

The Site

The site consists of an area of land to the west of Birkby Lodge and formed part of the grounds to the former hotel and includes the Coach House. This structure along with the former hotel are both Listed buildings. Access to the land is via a new access from Birkby Lodge Road as per the approved drawings.

Planning Approvals

The application site was approved for five dwellings including alterations of the listed coach house (within a conservation area) and approval was granted under both planning application number 2010/62/92182/W2 and Listed Building Consent number 2010/65/92183/W2 on the 23rd of March 2012. Within the timescale of these approvals, the development had to be begun not later than the expiration of three years meaning the 23rd of March 2015.

Works carried out on site

In order to lawfully commence development, it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990 which states that 'development is taken to begun on the earliest date on which a material operation is carried out'. A material operation is defined in the Act and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change of use of the land.

In both planning approvals, works have been carried out on the site which implement the planning approvals as follows and in line with the above.

Firstly, work commenced on the existing Coach House so as to preserve the materials and structure of the building including removing the roof slates and making the structure safe, the following photo showing the date this commenced and as such can be classed as material operations of demolition and construction operations of demolition and construction.



Photo shows the existing building with the roof slates removed and the start of glazing removal and vegetation dated 16 of January 2014.

Secondarily, the trees within the application site which were approved to be removed where taken away along with the vegetation and the site levelled/reduced dig in readiness of the digging of the foundations, etc. Also, the new approved road from Birkby Lodge Road to the proposed dwellings was brought up to the level of Birkby Road as the existing approach was lower than the proposed. The existing boundary wall was demolished to create the new access and foundations and walls constructed forming the new curved access walls.

Also, the existing public street light within the new access point was repositioned by Kirklees Council to a new position along with the repositioning of the existing bus stop for the same reason.

All of these above works can be classed as material operations in respect of demolition, laying out of the access entrance and road along with construction works.



The above photo shows a view into the approved site with the new entrance walls, repositioned bus stop, the layout of the new road into the site and its new height above the existing garden to the right and its route into the development site which is clear of trees and vegetation. These works commenced in January 2015.

In order to establish that the development is Lawful of its Proposed Use, there a few pre commencement planning conditions attached to the two approvals which required discharging, but the provision of these can still be met without any 'undoing' of work as work hasn't progressed beyond that point.

The conditions in question are as follows.

Listed Building Consent approval number 2010/65/92183/W2

Condition number 3 requests samples of all facing and roofing materials to be submitted and approved. As no construction works in which the facings and roofing materials have been done, then the requirements of this condition can still be fulfilled and implemented.

Planning Approval number 2010/62/92182/W2

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Condition number 11 refers to 'the provision of affordable housing'. Following a lengthy process between the applicant and Mr. James Hinchliffe of Kirklees Council in November 2013 through into April 2014 in which we provided information including a financial statement outlining the costs of altering and bringing back into use the listed building, it was

agreed that on a site of such a small scale and the costs involved, that a contribution towards affordable housing would not only be unreasonable, but would render the scheme unviable, hence the provisions of this condition have been fulfilled.

Condition 17 refers to a landscaping and tree/shrub planting scheme. As the proposals of such a scheme wouldn't be incorporated on site until all construction work had been completed, then the requirements of this condition can still be met and included.