

DELEGATED DECISION REPORT

HPK/2022/0520
Valid 18/11/2022

LAND AT FORGE ROAD
CHINLEY

CERTIFICATE OF LAWFUL
PROPOSED DEVELOPMENT
TO CONFIRM THAT THE
CONSTRUCTION OF A NEW
BUILDING COMPRISING B1
OFFICES/WORKSHOPS ON
THE GROUND FLOOR WITH A
FLAT ABOVE PURSUANT TO
PLANNING PERMISSION
HPK/2019/0417 WOULD BE
LAWFUL.

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

- Whether, having regards to the facts of the case, a material start has been undertaken on site in conjunction with HPK/2019/0417 and therefore whether the development as described on the Application Form can be carried out lawfully.

DESCRIPTION OF SITE

The application relates a parcel of land that forms part of the 'Forge Works' mixed used development, that lies at the southern end of Chinley village.

The site comprises a corner plot to the south of Forge Road and to the west of Blackbrook Drive which forms the entrance to the residential part of the development which is made up of over 100 houses.

The site was subject to a planning application approved under HPK/2019/0417 for development described as "*Construction of new building comprising of B1 Offices/Workshops on the ground floor and a flat above.*" The application was granted planning permission on 14th April 2020.

PROPOSAL

The application seeks a Certificate of Lawful Development under Section 192 of the Town and Country Planning Act 1990 confirming that "*the construction of a new proposed building comprising B1 Offices/Workshops on the ground floor with a flat above pursuant to planning permission HPK/2019/0417 would be lawful.*"

The application has been accompanied by a Location Plan, a Site Plan, and Supporting Letter with associated Appendices (EP-01 to EP-14) that provide evidence of a material start to development on site.

A further application to discharge all pre-commencement conditions applied to the Decision Notice was submitted under DOC/2022/0090. A letter was issued by the Council to the agent confirming that Conditions 11 and 17 were formally discharged, aside from a Verification Report which confirms the completion of the approved Remediation Scheme and confirmation that no additional contamination has been found during development.

OFFICER COMMENTS

Whether, having regards to the facts of the case, a material start has been undertaken on site in conjunction with HPK/2019/0417 and therefore whether the development as described on the Application Form can be carried out lawfully

The site subject of this application has been the subject of a planning application under HPK/2019/0417 for development as described within the Application Form, granted on 14th April 2020. The application therefore expires on 14th April 2023.

Section 56 of the Town and Country Planning Act 1990 states that:

- (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;*
 - (b) *if the development consists of a change in use, at the time when the new use is instituted;*
 - (c) *if the development consists both of the carrying out of operations and of a change of use, at the earlier of the times mentioned in paragraphs (a) and (b)*
- (2) *For the purposes of the provision of this Part mentioned in subsection (3) 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.*
- (4) *In subsection (2) 'material operation' means –*
 - (a) *any work of construction in the course of the erection of a building;*
 - (aa) *any work of construction in the course of the erection 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 foundation, 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*

Section 192 of the Town and Country Planning Act refers specifically to Certificates of Lawfulness for a Proposed Use of Development.

Subsection 1 states:

If any person wishes to ascertain whether –

- (a) *Any proposed use of buildings or other land; or*
- (b) *Any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question*

Subsection 2 states:

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect and in any case shall refuse the application

The Supporting Letter submits that the appendices EP-1 and EP-2 shows the setting out details for the proposed access and part of the car parking layout, and that during August 2022, the applicant started work on site in relation to the layout out of part of the car park area to the west of the development and also introduced the dropped kerb within the cul-de-sac of the New Road.

Evidence under EP-3 to EP-11 contains a number of photographs which when viewed as a whole, show the site conditions before, during, and after this work has taken place. Further evidence under EP-12 to EP-14 contains invoices issued to the applicant regarding materials bought to site and the supply and installation of kerb stones.

Following a review of all plans, information, and evidence that accompanies this application, Officers concur with the agents submission that a lawful start has been made on site, having regard to Section 56(4)(d) of the Town and Country Planning Act 1990, in view of there being clear evidence that a material start to development has commenced to the car park and access.

As such, in line with Section 192 of the Act 1990, the Council are content that based on the facts of the case, and evidence submitted in support of this application, the

description of development as set out on the Application Form can be constructed in a lawful manner.

It is therefore recommended that a positive Certificate of Lawful Development be granted for the proposed development as described.

OFFICER RECOMMENDATION : Grant Certificate

Case Officer: James Stannard

Recommendation Date: 19th January 2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council