



Planning Statement

TOWN & COUNTRY PLANNING ACT 1990

**SECTION 192 AS AMENDED BY SECTION 10 OF THE
PLANNING & COMPENSATION ACT 1991**

**TOWN & COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (ENGLAND) ORDER
2015**

**PROPOSAL:
CERTIFICATE FOR A PROPOSED USE OR
DEVELOPMENT – ERECTION OF THE TIMBER BARN
FOR THE STORAGE OF LIGHT GOODS VEHICLE,
FARM MACHINERY AND FEEDS APPROVED UNDER
PLANNING PERMISSION REF. Y/86/10**

**SITE:
MAGGIE'S MEADOW
HOE LANE, FLANSHAM, BOGNOR REGIS
WEST SUSSEX PO22 8NS**

**APPLICANT:
MR P BENNETT**

Background

This Certificate of Lawfulness for a Proposed Use or Development seeks to establish that it is lawful to complete the construction of the timber barn approved under application ref. Y/86/10. This permission, a copy of which is attached to this application, was approved by decision letter dated the 9th February 2011. It granted consent for a timber barn as use for the storage of light goods vehicles, farm machinery and feed at Maggie's Meadow, Hoe Lane, Flansham, Bognor Regis, West Sussex PO22 8NS. The planning permission was made the subject of a standard three-year time limit condition. There was also a Condition on the consent that required the building to be occupied solely for purposes ancillary to the use of the land for agricultural use and that such use should comprise storage of feed, dry goods and agricultural machinery. There were no pre-commencement Conditions on the consent or any other planning conditions that required discharge.

Legal Background

As this case revolves around the issue of whether the permission was implemented within the prescribed time limit of the original planning permission, the following is some background concerning what constitutes a material commencement of development.

Commencing development means undertaking limited works on site to commence a planning permission and thus keep it alive. The works must be done within the time limit expressed on the permission. In order to lawfully commence development, it is necessary to satisfy the legal requirements in Section 56(4) of the Town & Country Planning Act 1990. This states that development is taken to be done 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 in the use of land. In practise, the Courts have held that very minor works are sufficient to commence planning permission. This may include pegging out of roads, piling or the digging and laying of foundations.

The Facts of the Case

Following the grant of planning consent for the building in February 2011, the applicant instructed Spire Construction to undertake the groundworks required. This company undertook the digging of the footings and the laying of concrete strip foundations in December 2011 and the applicant paid the company the fee for this work in January 2012.

These footings remain in situ. For financial reasons, the applicant did not proceed to complete the construction of the building and it was left with the foundations and footings in place. Earlier this year, the applicant recommenced the construction of the building and began the blockwork walling on the existing foundations. Following a visit from the Enforcement Department at Arun District Council, this work was stopped so that the legal position with regard to whether planning permission ref. Y/86/10 remained extant could be ascertained through the submission of a Certificate of Lawful Use for a Proposed Development application.

Evidence to Demonstrate that a Material Start was made on Planning Permission Ref. Y/86/10

The following information is supplied with this application to prove that a material start on the relevant permission was made within the prescribed time period:

1. A Statutory Declaration from Paul William Bennett setting out the history of the site and the timing and extent of building works that were undertaken in the implementation of the planning consent.
2. An invoice from the construction company who undertook the groundworks dated the 11th November 2011. The estimate is marked by the applicant as having been paid on the 28th January 2012.
3. A letter from Mark Hackett, the former director of Spire Construction confirming that he undertook construction of the footings for the barn in December 2011.
4. An aerial photograph taken from Google Earth and dated the 6th June 2013 showing the outline of the footings of the barn in situ.
5. An aerial photograph from google Earth dated 2007 which shows the site in its undeveloped state with no evidence of footings.

6. A letter from the Compliance Officer at Arun District Council dated the 1st September 2011 which makes reference to the existence of various builder's materials at the site to be used in construction of the barn.

Overview

It is believed that the evidence here presented proves that 'on the balance of probability' the applicant had the foundations of the proposed barn approved under application ref. Y/86/10 constructed within the statutory three-year time limit. The applicant's own Statutory Declaration is clear setting out the timescales and the extent of the construction work. Further this is backed by a copy of the quote of the contractor who undertook the work dating from November 2011. This estimate is marked as having been paid in January 2012. The contractor (Mark Hackett) has also supplied a handwritten letter confirming the facts as to when the work the foundation works were undertaken.

The aerial photographs also present compelling evidence. On the Google Earth aerial photograph from the 6th June 2013, the outline of the approved building is clearly evident. It shows not only the footings but also the hard-core that was put on the footprint of the building for its concrete floor.

The letter from the Compliance Officer at Arun District Council dated 1st September 2011 also references the existence of building materials on site that were awaiting use in the construction of the barn.

In legal terms, the digging of footings and the laying of concrete trench foundations would constitute a material start which would keep a planning permission alive. In this case, there were no pre-commencement planning conditions which required discharge and the case is therefore not complicated by issues of whether the start that was made was lawful.

It is beholden on the decision-maker to accept the applicant's evidence at face value unless they have cogent reasons to doubt the veracity of such evidence. The applicant's evidence is clear and unequivocal, and the documentary evidence supplied to back up the Declaration, including the estimate from the builder, his letter of confirmation of when the work was undertaken and the aerial photographs, all point conclusively to the fact that the footings were installed comfortably within the prescribed three-year time limit.

On the basis of information supplied it is believed that it is lawful for the applicant to now complete construction of the timber barn approved under application ref. Y/86/10.