03 October 2024

Planning
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
PE29 3TN

Dear Sir/Madam,

Lawful Development Certificate
IKO-ECO House, ECO Manufacturing, St Mary's Road, Ramsey, PE26 2SJ

This submission has been prepared by Pegasus Group on behalf of our client, ECO Manufacturing Ltd., to support their application for a Lawful Development Certificate (LDC) under Section 191 of the Town and Country Planning Act 1990, relating to activities carried out in breach of a planning condition.

The development which this LDC relates was approved under application 0200958FUL and implemented in full following approval on the 19th of November 2002.

This application seeks formal confirmation from HDC that the building approved in the above application is lawful. Whilst some pre-commencement conditions were not discharged prior to the commencement of development, this breach occurred in excess of 10 years ago, meaning the period in which HDC could take enforcement action has now expired.

In relation to a breach of condition, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach. It is difficult to specify an exact date when the likely breach first occurred, however the evidence in Appendix 1 and 2 indicate that a breach would have occurred at the latest in February 2008 – as development was noted to be 'near completion'. This correlates with Google Earth imagery from around this time. For the purposes of this statement, it is therefore assumed that the breach took place in February 2008 – some 16 years ago at the time of submission.

The burden of proof lies with the applicants to evidence that the scheme was implemented and that the breach occurred in excess of ten years ago. The evidence submitted in this letter and its appendices, irrefutably demonstrates that the building has been standing for a period in excess of ten years and as such, the breach is now immune from enforcement action.

[redacted]

[redacted]

Background

The site benefits from permission for the erection of a factory unit (class B2), which was granted on the 19th of November 2002.

A letter received by the applicant from Mr. Andy Moffat (Development Control Manager) on the 15th of February 2008 confirmed that Conditions 2, 6, 7, 8, 9 and 10 of the decision notice had been discharged in full, however it noted that HDC did not have any evidence of the discharge of conditions relating to landscaping.

As a result of the significant period of time which has now passed since the permission was granted, the applicant cannot confirm whether all conditions were indeed discharged. It has to be assumed that the conditions requiring additional landscaping detail have therefore never been discharged. Accordingly, the applicant seeks to regularise the permission by submitting this Lawful Development Certificate (LDC).

This LDC is submitted on the grounds that the development was implemented, and has now been operating on the site for a period in excess of 10 years.

Evidence

In support of this LDC submission, I attach (in Appendix 1) date-stamped Google Earth Satellite imagery which clearly shows the development over time. The images show how the site was developed following the grant of permission, with the building complete or substantially complete by 2008. In the intervening years the building has been in consistent B2 (Industrial) use as approved.

In addition, the letter received from HDC dated February 2008 (Appendix 2) confirms that the development was "near completion", despite HDC having no evidence of landscaping conditions being discharged. This is tacit acceptance that the application was in breach, however the letter does not constitute an enforcement notice, and no further action was taken.

Relevant Legislation

Section 191 of the Town and Country Planning Act (1990) (As amended) states in Part 3, that "For the Purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if – (a) the time for taking enforcement action in respect of the failure has then expired; and (b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force."

The relevant test is therefore whether the time period for taking enforcement action has passed, and whether any enforcement notice or breach of condition notice has been issued.

The evidence submitted in Appendix 1 and 2 show clearly that the development was constructed and has been in use for a period far in excess of 10 years and so the first test is met.

The second test relating to any enforcement action is also passed, as no formal action was taken by HDC relating to the breach of landscaping conditions within the 10 year window from the breach occurring (i.e., since 2008).

Conclusion

The evidence provided in Appendix 1 and 2 demonstrates the likely point at which the landscaping condition was breached (February 2008). The subsequent aerial imagery irrefutably demonstrates that the site has been in use since this date, a period covering some 16 years – far in excess of the ten year period required under Section 191 of the TCPA 1990. HDC must now therefore confirm that the breach of condition is now immune from enforcement action and the continued use of the site is therefore lawful.

In accordance with the Planning Practice Guidance, this application describes precisely what is being applied for, and the land to which the application relates. If the Council has no evidence itself, nor from any third parties, to contradict the evidence in this Planning Statement or otherwise which make the applicant's version of events less probable, then there is no good reason to refuse the application.

This submission is made via the Planning Portal, with the reference PP-13458507. The requisite fees of £363.00 (including service charges) have been paid to HDC via the Planning Portal.

I trust the above is self-explanatory, however should you have any questions or require clarification on anything, please do not hesitate to contact me.

Yours Sincerely,

[redacted]

APPENDIX 1 – AERIAL IMAGERY

Figure 1 below – Dated 01 January 1999 – Showing the previous use of the site prior to development and the submission of the application (0200958FUL) to HDC.



Figure 2 below – Dated 21 February 2003 – Showing the site cleared ready for construction, shortly after the approval of 0200958FUL by HDC in November 2002.



Figure 3 below – Dated 01 January 2006 – Showing the site cleared ready for construction following the grant of permission.



Figure 4 below – Dated 17 October 2008 – Showing the site approved buildings completed. Important to note is that this image corresponds well to the letter in Appendix 2 which states that the site was 'near completion' as of February 2008. It can be assumed that at this point the condition requiring additional detail of landscaping has been breached.



Figure 5 below – Dated 16 April 2014 – Showing the completed structure



Figure 6 below – Dated 31 July 2020 – Showing the most recent satellite imagery of the site.



APPENDIX 2 – HDC Letter received 15th February 2008.

Architecture and
Surveying Institute
Building Surveyor
Member

[redacted]
M.R.I.C.S. F.A.S.I. F.C.I.O.B.
Chartered Surveyor. Building Design Consultant

69, Upwood Road,
Bury,
Huntingdon,
Cambs,
PE26 2PE.
[redacted]

25 FEB 2008

RICS

Our Ref: - BW/KW/2999

Eco Manufacturing Ltd
St Marys Road
Ramsey
Huntingdon
PE26 2SW

For Attention [redacted]

21st February 2008

Dear [redacted]

Ref: -**Factory 1 Acre.**

I enclose letter from Planning Office that clears the outstanding condition except landscaping which has not been submitted.

Charlie and Steve say that subject to a final meeting with the Highway Officer they have agreed the current access details but understand that Roger wants to postpone this work. Planning condition is that access to be Highway Authority agreed.

I also understand that the Highway Authority propose to close the road for a period of time and if this happens it would be wise to carry out this work at the same time. You will save the cost of road management ie traffic lights, barriers and possibly road opening permit. The cost of the work should be cheaper because if St Marys Road is closed it will be possible to spend less time cleaning up every night and the road/verge can be used for storage of materials.

You may not appreciate that the original officer who agreed details left the council hence changes and if the access kerbs are delayed and the current officer leaves his details could have to be agreed again accordingly to Highway requirements at the time and this could increase costs.

As I see this you could lay the kerbs, path and road formation and say tarmac the verge crossing prior to occupation.

I believe the Tesco/Northern Gateway scheme has now been granted Government approval and if you do this section of highway works you could try delaying the rest of the path in front of existing factory until Tesco build the roundabout since you cannot establish where the two meet!!

[redacted]

Huntingdonshire

district council

PATHFINDER HOUSE ST MARY'S STREET HUNTINGDON PE29 3TN

[redacted] FASI
Antivian
69 Upwood Road
Bury
Huntingdon Cambs PE26 2PE

Our Ref: 0200958FUL
Your Ref:

15th February 2008

Dear Sir

Planning Application Receipt – Ref. 0200958FUL
Erection of factory unit for Eco Manufacturing Ltd
Land At Former Leisure Building Site St. Marys Road Ramsey Huntingdon Cambridgeshire

I have come across some outstanding correspondence – letters and enclosures dated 23rd January 2007, 23rd February 2007 and 4th May 2007 - relating to condition discharge at the above development which I note is near completion although work seems to have temporarily ceased.

I apologise for the delay in reply but for the record I note the details of materials, loading , unloading and car parking areas, cycle shelter, access detail, levels, drainage and footpath submitted pursuant to Conditions 2, 6, 7, 8, 9and 10 of the planning permission reference 0200958FUL dated 19th November 2002. I would inform you that these details are acceptable and the conditions will be fully discharged once the development is carried out ion accordance with those details. I note however that landscaping detail is yet to be submitted

If you wish to discuss the matter further please contact The Planning Officer, [redacted] on Direct Dial (01480) 388407 or the Team Support Officer on (01480) 388412.

Yours faithfully

Andy Moffat

Andy Moffat
Development Control Manager
Planning Services

From the 6th April 2008, only planning and related applications submitted on the new national standard application forms under the heading of '1APP' and including the necessary national and local information will be accepted. The new forms and checklists will be available from March.

Tel **01480 388388** Fax **01480 388099** **mail@huntsdc.gov.uk** **www.huntsdc.gov.uk**

PLANNING SERVICES