

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H02-0696-21 **Applicant:** Kaone Ltd.

Proposal: Implementation of planning permission H02-1765-06 relating to the erection of 10 dwellings and associated works.

Location: 60 North Street Crowland Spalding

Terminal Date: 23rd August 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Not relevant.

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is an application for a lawful development certificate as confirmation that planning permission ref. H09-0332-16 (relating to the erection of 10 dwellings and associated works at 60 North Street, Crowland) was implemented within the relevant timeframe.

Site Description

The site extends to approx. 0.35 hectares and is presently accessed off North Street. A large commercial type building remains on the western part of the site. There are residential properties to the north, east and south of the site. The site slopes up to West Bank, with the roadway being approximately 1.2m higher than the main body of the site. The easternmost part of the site is situated inside the boundary of the Crowland Conservation Area.

History

H02-0338-09 - Details of existing/proposed site levels, external materials, eaves, verges, rainwater goods, doors, windows, porches & canopies and revisions to rear elevations of dwellings WB1 and WB2 (Conditions 1, 2, 5 and 6 of H02-1765-06) (approved 3 August 2009)

H02-0206-09 - CA Consent - Demolition of outbuildings (approved 18 June 2009)

H02-0339-09 - Details of archaeological programme (Condition 5 of Appeal Decision relating H02-1446-03) (approved 5 June 2009)

H02-1765-06 - RM - Erection of 10 dwellings and associated works (approved 18 June 2007)

H02-1446-03 - Outline - Proposed residential development (allowed by Sec of State 1 September 2004)

Consultation Responses

Not applicable.

Planning Considerations

This is an application for a lawful development certificate as confirmation that planning permission ref. H09-0332-16 (relating to the erection of 10 dwellings and associated works at 60 North Street, Crowland) was implemented within the relevant timeframe. The works undertaken to date comprise of the demolition of a building.

Outline application ref. H02-1446-03 was allowed by the Secretary of State on the 1st September 2004 subject to a number of conditions, including those setting out time limits with which to comply - 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the latter.

Reserved matters application ref. H02-1765-06 was validated on 12th April 2007, therefore satisfying Condition 3. This application was approved on 18th June 2007. With regard to Condition 4, two years from the date of approval of reserved matters is 18th June 2009 and five years from the date of the outline permission is 1st September 2009. The latter is the relevant date by which the planning permission should have been implemented by.

The applicant has submitted the following in support of the application:

- Statement of Truth signed by an individual whom, in 2009, was director of a company that entered into a contract to commence development on the site; and accompanying invoice dated 15th September 2009.
- Statement of Truth signed by an individual whom, in 2009, was a director of an estate management company that entered into a contract with the previously mentioned company to demolish and remove a building, together with the floor slab, at the application site; accompanying invoice dated 8th September 2009; and 6 x photographs (undated) as evidence.
- Timeline of Events relating to Planning Appeal and Approvals.
- Appendix to Lawful Development Certificate Application Form.
- Copy of Letter to SHDC

Section 55 of the Town and County Planning Act 1990 (as amended) outlines the meaning of "development" for planning purposes - This includes the demolition of buildings. The relevant operations have therefore taken place and there is no disputing this fact.

The key matter for consideration is whether said operations have taken place within the relevant timeframe i.e. by 1st September 2009.

Two Statements of Truth have been provided which are set out in a similar format to a Statutory Declaration. The details within are considered to be sufficiently precise and unambiguous, albeit it is not sworn evidence. The invoices which accompany the Statements of Truth are dated after the relevant date by which the permission should have been implemented, but it is not unusual for invoices to be provided and dated subsequent to work taking place. Unfortunately the submitted photographs are undated and therefore do not add anything to the submission either way, nor does the copy of the letter sent to an SHDC Planning Officer to which no response was provided. Notwithstanding this, in the absence of the council holding any clear evidence to the contrary, it is considered that, on balance, the permission has been implemented within the relevant timeframe.

It is therefore considered appropriate to issue a certificate of lawfulness.

Planning Balance

On the balance of probabilities, it is concluded that planning permission ref. H02-1765-06 was implemented within the relevant timeframe and it would be appropriate to issue a certificate of lawfulness.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Given the absence of contrary evidence it is considered that, on the balance of probabilities, planning permission ref. H02-1765-06 was implemented within the relevant timeframe and it would be appropriate to issue a certificate of lawfulness.