

**Certificate of lawful development to confirm that planning permission H04-0894-17 for 7 homes on land at Cook Engineering, Donington has been lawfully commenced under S56(4) of the Town and Country Planning Act.**

Statement of evidence on behalf of Cook Property Holdings



**3D Planning** - Town Planning Consultancy

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**Planning Statement in support of an application for a certificate of lawful development for the lawful commencement of planning permission H04-0894-17 for 7 homes.**

**Introduction**

Planning permission was granted for the development of 7 homes under permission H04-0894-17;

The pre commencement conditions have been discharged under submission references H04-1195-19, H04-0445-20 and H04-0773-20.

A material commencement was undertaken on site on the morning of the 16 November 2020.

We are seeking confirmation through this application submission that the building operation carried out on Nov 16, 2020, is a material commencement and as such the permission remains extant and capable of completion within the scope of the permission.

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**Proposal**

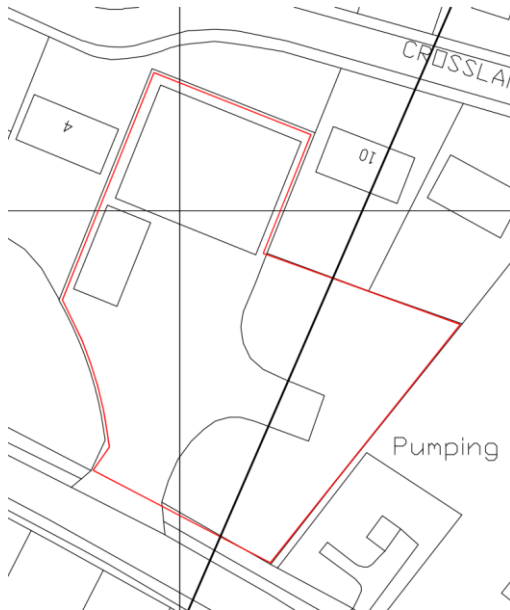
The application is made for a certificate of lawful development to seek confirmation that the buildings operations carried out on the 16 November 2020 were material development operations sufficient to lawfully commence the permission and as such confirm that the permission is still extant.

Existing Use – engineering workshop and curtilage.

Site features – see site photos and description from planning submission on base permission.

**Site**

Location –  
Land at Cook Engineering, Quadring Road, Donington.



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## Planning background

|  South Holland District Council |                                                                 |                                                                                                                                                                                                                                                            |                               |          |
|------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------|
| Reference                                                                                                        | Location                                                        | Proposal                                                                                                                                                                                                                                                   | Received Type                 | Status   |
| H04-0773-20                                                                                                      | DAVE COOK<br>ENGINEERING<br>QUADRING ROAD<br>DONINGTON PE11 4TB | Details of Condition 7 (i, ii, iii) of H04-0894-17 relating to contamination                                                                                                                                                                               | 15-09-20 CONDITION COMPLIANCE | Approved |
| H04-0445-20                                                                                                      | Dave Cook Engineering<br>Quadrang Road<br>Donington PE11 4TB    | Details of site levels, contamination ground report, materials, surface water drainage, landscaping, boundary treatment, storage of waste bins and external service boxes (Conditions 3, 7- parts i and ii only , 8, 9, 10, 11, 12, and 13 of H04-0894-17) | 08-06-20 CONDITION COMPLIANCE | Approved |
| H04-1195-19                                                                                                      | DAVE COOK<br>ENGINEERING<br>QUADRING ROAD<br>DONINGTON PE11 4TB | Details of Written Scheme of Archaeological Investigation (Condition 4 of H04-0894-17)                                                                                                                                                                     | 10-12-19 CONDITION COMPLIANCE | Approved |
| H04-0894-17                                                                                                      | Dave Cook Engineering<br>Quadrang Road<br>Donington PE11 4TB    | Erection of 7 family homes                                                                                                                                                                                                                                 | 21-09-17 FULL                 | Approved |

Full planning permission was granted for 7 homes dated 21 November 2017.

Condition 1 requires commencement of development within 3 years of the decision.

The permission was subject to a number of conditions that required approval of details prior to commencement. These conditions were duly discharged in the condition submission noted above.

I met with the applicant on site on the 16 November 2020 and witnessed contractor digging of a trench for the site drainage system- as noted on the approved drainage plans. This is a material operation sufficient to trigger the commencement of the permission.

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**Planning requirements**

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. This says that “*development is taken to be begun on the earliest date on which a material operation is carried out*”.

A material operation can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.

In accordance with **Section 56(4) of the Town and Country Planning Act 1990**, in order to commence development, you need to carry out a material operation in association with the planning permission. There are five elements which constitute a material operation, comprising:

- (A) Any construction work to erect a building;
- (AA) Any demolition of the building;
- (B) The digging of a trench to contain the foundations or part of the foundations of a building;
- (C) The laying of underground mains or pipes to the foundations;
- (D) Any works involved with the laying out or construction of a road or part of a road; **and**
- (E) A material change in the use of the site.

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## Evidence of commencement

### Emails from the 16 Nov 2020.



From: [tim.3dplanning@sky.com](mailto:tim.3dplanning@sky.com) <[tim.3dplanning@sky.com](mailto:tim.3dplanning@sky.com)>  
Sent: Monday, November 16, 2020 12:13 PM  
To: 'Grant, David' <[dgrant@sholland.gov.uk](mailto:dgrant@sholland.gov.uk)>  
Cc: Jon Cook <[jon@davecook-eng.co.uk](mailto:jon@davecook-eng.co.uk)>; 'Harry Brown' <[Tawnyhomesltd@outlook.com](mailto:Tawnyhomesltd@outlook.com)>  
Subject: FW: Planning Decision - H04-0773-20; Applicant: Cook Property Holdings Ltd.; Location: DAVE COOK ENGINEERING COMMENCEMENT

David

Thank you for the final pre commencement condition discharge in relation to the above development.

As set out in my previous emails it has been the applicants intention to commence development of the site within the 3 years set out in the attached permission-i.e. by the 21 Nov 2020.

I have attended site this morning and witnessed the commencement of the development with the digging of a trench pursuant to the approved development- in this case a drainage trench which forms part of the approved SUDS site drainage as set out on the attached plan. The trench has now been backfilled as further development completion of the scheme will continue in Spring when weather is more conducive to building.

We will be submitting a certificate of lawful development to confirm the lawful commencement of the scheme in the next few weeks , but in the interim please can you confirm receipt of this email and the photos attached.

Tim Slater  
BA (Hons) DMS MRTPI  
3D Planning Ltd.  
07764 818154

## 3D Planning - Town Planning Consultancy



RE: Planning Decision - H04-0773-20; Applicant: Cook Property Holdings Ltd.; Location: DAVE COOK ENGINEERING COMMENCEMENT



Grant, David <[dgrant@sholland.gov.uk](mailto:dgrant@sholland.gov.uk)>  
To: [tim.3dplanning@sky.com](mailto:tim.3dplanning@sky.com)  
Cc: 'Jon Cook'; 'Harry Brown'; Fidler, Richard

You forwarded this message on 03/10/2023 15:23.

Reply Reply All Forward  
Tue 17/11/20

Dear Tim,

I confirm receipt of this email and the photos attached.

Kind regards,

David Grant | Senior Planning Officer | South Holland District Council  
Direct Dial: 01775 764472  
[www.sholland.gov.uk](http://www.sholland.gov.uk)

Please note that any informal officer opinion expressed by this email is without prejudice and is not binding on the Council during the consideration of any formal application.

From: [tim.3dplanning@sky.com](mailto:tim.3dplanning@sky.com) <[tim.3dplanning@sky.com](mailto:tim.3dplanning@sky.com)>  
Sent: 16 November 2020 12:13  
To: Grant, David <[dgrant@sholland.gov.uk](mailto:dgrant@sholland.gov.uk)>  
Cc: 'Jon Cook' <[jon@davecook-eng.co.uk](mailto:jon@davecook-eng.co.uk)>; 'Harry Brown' <[Tawnyhomesltd@outlook.com](mailto:Tawnyhomesltd@outlook.com)>  
Subject: FW: Planning Decision - H04-0773-20; Applicant: Cook Property Holdings Ltd.; Location: DAVE COOK ENGINEERING COMMENCEMENT

The email exchange above was sent to the case officer and Mr Fiddler following the commencement on site on the 16<sup>th</sup> of November. It is noted that the officer acknowledged receipt of the photos (see second email).

Plan of drainage showing approved drainage and section that was excavated.



Plan of excavation use on site to define the position of the trench and as sent to the case officer on the 16 Nov 2020.

## Planning Statement in support of an application for a certificate of lawful development for the lawful commencement of planning permission H04-0894-17 for 7 homes.

The commencement involved digging part of the surface water drainage trenches necessary for the removal of surface water from the dwellings and the associated hard surfacing on the driveways and other impermeable surface. This is a material building operation under section 55.

### 55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

F1[(1A) For the purposes of this Act "building operations" includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.]

The digging of trenches necessary for drainage is clearly a building operation as set out in S55 and sufficient to constitute a material commencement as set out in S56.



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**Conclusions**

A material building operation was carried out on the 16<sup>th</sup> November 2020 sufficient to trigger a lawful commencement of the planning permission H04-0894-17- it is requested that South Holland District Council as local planning authority issue a certificate of lawful development to confirm that the commencement was and is lawful.

I trust that this is on order however if you have any questions arising, please contact me.

Tim Slater  
BA (Hons) DMS MRTPI  
3D Planning Ltd.  
07764 818154

**3D Planning - Town Planning Consultancy**

