

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/01259/CPE

CASE OFFICER

Anna Hayes

DETERMINATION DATE 14.02.2025 **EXT OF TIME** N/A

Address: Castle Bungalow, Swaindrod Lane, Littleborough, Rochdale, OL15 0LE

Proposal: Application for a certificate of lawfulness (Existing) relating to the lawful commencement of development under planning permission 12/D55193 relating to the erection of a replacement bungalow.

PUBLICITY	Weekly list expired?	n/a	Site notice expired?	n/a
	Neighbour letters expired?	n/a	Press Notice expired?	n/a

DELEGATION	Significant departure from local plan?	n/a	Contrary to national policy?	n/a
	Applicant a Council Member or officer?	n/a	Contrary to previous decision?	n/a
	Major with 10 or more objections and recommending approval?	n/a	Called in or Planning Panel objection?	n/a

COMMENTS	Planning Panel comments received?	n/a
	Neighbour comments received?	n/a

EIA	Screening opinion completed and saved to Onbase?	n/a
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CONDITIONS	Pre-commencement conditions proposed?	n/a
	Pre-commencement conditions agreed (or notification period expired)?	n/a

RECOMMENDATION	Grant
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CHECKED AND SIGNED OFF BY: TH

DATE: 14.02.2025

SITE

The application relates to a plot of land on Swainrod Lane off Hallifax Road in Littleborough, Rochdale, formerly occupied by a single storey building known as Castle Bungalow. The site is within a rural and isolated location in the Chelburn/Blackstone Edge Moors in an area of Green Belt as identified on the Unitary

Development Plan Proposals Map. The site is accessed via narrow un-adopted Bridleway (Swainrod Lane) which forks off Halifax Road to the south (over a distance of some 0.5 miles). The closest buildings (Greenhalgh Farm and Barrat Farm) are located some 243 metres to the west and 325 metres to the north of the site respectively. The site is set against the backdrop of an undulating landscape within the grounds of Castle Farm, which is located approximately 180m to the east of the site.

As reported within the previous planning report, on the 30th October 2011, Castle Bungalow was destroyed in a fire as report in the Rochdale Observer on the 2nd November. Although the precise cause of the fire has yet to be established, given the property's remote location, the fire could well have been started by vandals. Only the foundations, a section of the north-facing gable, some internal brick partitions and the gated entrance remain in situ. The Officer also noted various remnants of its occupation (such as W.C, wash basin, books/documents, and crockery etc) in the charred remains of the dwellings.

The early 20th century cottage was modest in size and simple in design and was of the wooden timber chalet type with a dual pitched roof covered in corrugated metal cladding. The dwelling occupied a central position in the plot of some 0.07 Ha with minimal formal landscaping and an outer perimeter demarcated by low, permeable boundary treatments (such as timber posts and wires and picket fences). Vehicular access is taken from the south-east corner of the site and a Public Right of Way (ref LitBp326a) runs parallel to the eastern boundary of the site.

PROPOSAL

The application seeks a Certificate of Lawfulness under section 191 of the Town and Country Planning Act 1990 for an existing use or operation or activity.

The application seeks confirmation that there has been a lawful material start on site in relation to application 12/D55193 for the 'Erection of replacement bungalow' which was granted planning permission, subject to conditions, on 29 March 2012.

The following information has been submitted in support of the application, received 20th December 2024:

- Application form;
- Cover letter dated 18.12.2024 produced by R&R Consultants;
- Copy of the decision notice for planning permission 12/D55193 (Ref: Note 1)
- Letter from Alan Butterworth to Hartley Planning and Development Associates Ltd, dated 15/10/2013, to confirm that the development had unfortunately been on hold due his partners serious health problems. (Ref: Note 2)
- Discharge of condition application (14/00051/DOC) approved by the Local Planning Authority (Ref: Note 3) on 24/03/2015. This DOC application related to all pre-commencement conditions (3,5,6,7 and 8) on planning permission 12/D55193.(Ref: Note 3)
- Letter from Hartley Planning and Development Associates Ltd, dated 24/03/2014 to Alan Butterworth to confirm that a material start must commence no later 28/03/2015. (Ref: Note 4).
- Acceptance of Initial Notice dated 17/04/2014 (Ref: Note 5).
- Note from Alan Butterworth to summarise his conversations with Ben Crossley (BC Groundwork). The note confirmed that on 16/2/2015 Ben commenced works to the access and hardstanding whilst on 19/2/2015 he removed existing slab/brickwork from the existing bungalow. On the 7/3/2015 it is confirmed that Ben had dug all the trenches to house the bungalow (Ref: Note 6)

- Note from Alan Butterworth, dated 19/03/2015, stating he had spoken with Rachel Carney (Senior Planning Officer) to confirm the development had commenced (Ref: Note 7) prior to the 3 year deadline.

Additional evidence:

- "Submitted with the application is an invoice, dated 20.02.2015, from BC Groundwork to confirm the following works: a. Form access road with aggregate on site. b. Break out existing masonry plinth c. Break out existing foundations d. Excavate new foundations"; and,
- "...aerial photographs from Google Earth which clearly illustrates the new access and trenches which are in accordance with the approved plan".

RELEVANT PLANNING POLICY

National Guidance

National Planning Practice Guidance (NPPG)

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

Other

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

RELEVANT SITE HISTORY

12/D55193 - ERECTION OF REPLACEMENT BUNGALOW – Granted subject to conditions 29 March 2012

14/00051/DOC - Submission of details to comply with conditions 3, 5, 6, 7 and 8 on planning permission 12/D55193 – Request completed 24 March 2014

CONSULTATION RESPONSES

There is no statutory requirement to consult third parties including parish councils, or neighbours. It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application (NPPG paragraph 08 Reference ID: 17c-008-20140306).

As there is no statutory requirement to consult third parties, no letters were sent to neighbouring occupiers/owners when this application was validated.

REPRESENTATIONS

Not applicable, as above.

ANALYSIS

Background

This application for a Certificate of Lawfulness is made under Section 191 of the Town and Country Planning Act 1990 (The Act). An application under s191 can be made if any person wishes to ascertain whether the following would be lawful –

- a) any existing use of buildings or other land is lawful;
- b) any operations which have been carried out in, on, over or under land are lawful; or
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

S191 (4) states that: If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Section 56 of the Town and Country Planning Act 1990, as amended, refers to 'Time when development begun'. Subsection (1)(a) states that subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated – if the development consists of the carrying out of operations, at the time when those operations are begun. 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. Subsection (4) defines "material operation" –

- (a) any work of construction in the course of the erection of a building;
- (aa) any work of demolition 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 foundations, 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.

Assessment

Planning permission 12/D55193 was granted subject to conditions on 29 March 2012. Condition 1 (time limit) of this permission states:

'The development must be begun not later than the expiration of three years beginning with the date of this permission

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.'

Development (a material operation) will therefore need to have commenced by 28 March 2015.

Before this however, any pre-commencement condition will need to have been discharged. Attached to planning permission 12/D55193 there were 5no. Pre-commencement conditions, including:

- 3 (Materials, externally on the building)
- 5 (Foul water disposal)
- 6 (Hardstanding details)
- 7 (Finished floor levels)
- 8 (Materials, doors and windows)

The submission of details reserved by conditions 3, 5, 6, 7 and 8 were approved (discharged) under application 14/00051/DOC.

Submitted 'Note 6' details the works on site which commenced on 16 February 2015 which include works to the site access and hardstanding. This is also evidenced in the submission document containing aerial photographs from Google Earth, which illustrate the new site access (which is reflective of the approved works as shown on the drawing titled 'Proposed Reconstruction of bungalow destroyed by fire (Proposed Elevations, Floor Plans and Site Plan)' as cited within condition 2 of planning permission 12/D55193.

'Note 6' also states that on 19 February 2015 BC Groundwork removed existing slab/brickwork from the existing bungalow. On 19 March 2015 all trenches to house the bungalow had been dug out.

An invoice dated 20 February 2015 confirms the above works.

Officers took a site visit on 22 January 2025 to observe the works described above. It was evident that the trenches were in situ and had been dug out and reflective of the Google imagery. The entrance to the site had also been cut out. It is also found that the rough measurements of the trench as taken from Google align with that of the approved layout.

Where some parts of the dug-out trench may have naturally infilled/ vegetated, this does not materially alter the status of the works. This is further to the judgement in the High Peak Borough Council vs SoS and Courtdale Development Ltd [1981], where it was held that it was not necessary for a trench to remain open from the time it was dug to the laying of foundations. So, in accordance with the judgment in High Peak, any natural infilling does not mean that the planning permission cannot be implemented since a material start to its construction has already been lawfully made.

Based on the information supplied it is found that there has been a lawful commencement of development under planning permission 12/D55193 relating to the erection of a replacement bungalow.

A certificate should therefore be issued to this effect and granted under section 191 of The Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

Grant Unconditionally

Procedure Statement

Notes for Applicant:

For the avoidance of doubt, this decision relates to the following documents and drawings received 20.12.2024:

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- Cover letter dated 18.12.2024 produced by R&R Consultants;
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Report Author Anna Hayes