

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	SD	4/12/19
Planning Development Manager authorisation:	TF	04/12/19
Admin checks / despatch completed	CC	04.12.19
Technician Final Checks/ Scanned / LC Notified / UU Emails:	ER	04/12/19

**Application:** 19/01632/LUEX

**Town / Parish:** Ramsey & Parkeston Parish Council

**Applicant:** Harding Estates (East Anglia) Ltd

**Address:** Land East of Pond Hall Farm Ramsey Road Ramsey

**Development:** Construction of part of the permitted link road in accordance with permission 14/01431/OUT in order to begin development on the part of the permission granted in full in accordance with condition 21 and Section 56 of the Town and Country Planning Act 1990, as amended.

### 1. Town / Parish Council

N/A

### 2. Consultation Responses

N/A

### 3. Planning History

14/01431/OUT

Hybrid application for proposed comprehensive development & the creation of employment floorspace (including start up units) consisting of:

Outline approval for development of site to create employment units, cafe / restaurant units, public house, drive thru restaurants, cinema, hotel, up to 297 dwellings, landscaping, open space & associated means of access, internal estate roads & car parking. Full approval for the creation of retail shop units, foodstore, petrol filling station, associated highway works & improvements including a new roundabout off the A120 & link road, earthworks, service infrastructure & other associated works & improvements.

Approved

08.06.2016

19/00239/DISCON	Discharge of condition 17 (Roundabout Solution) to approved Planning Application 14/01431/OUT.	Approved	14.05.2019
19/00576/DISCON	Discharge of condition 2 (Strategic Phasing Plan) of application 14/01431/OUT.	Approved	17.10.2019
19/00754/DISCON	Discharge of conditions for Phase 1 only: 7 (Ecological Enhancement), 10 (Archaeology), 11 (Local Recruitment) and 15 (Construction Management) of approved application 14/01431/OUT.	Approved	17.10.2019
19/00851/DETAIL	Reserved matters application for the development of site to create employment units, cafe / restaurant units, public house, drive thru restaurants, cinema, hotel, up to 297 dwellings, landscaping, open space & associated means of access, internal estate roads & car parking.	Pending	

#### **4. Relevant Policies / Government Guidance**

The Town & Country Planning Act 1990; Section 191 (1)

#### **5. Officer Appraisal (including Site Description and Proposal)**

The Planning and Compensation Act, Subsection (1) of section 191 provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes

Applications for Lawful Development Certificates should include the following information:

- o whether the application relates to:
- o a use
- o a building operation
- o a condition not complied with
- o the date that the use started
- o any use class the applicant considers to be applicable
- o the reasons the applicant thinks he is entitled to a Lawful Development Certificate
- o any other relevant information
- o a plan identifying the land
- o a certificate as to the applicant's interest (ownership, tenancy etc.) in the land and any interest of any other person.

It is up to the person applying for a Lawful Development Certificate for an existing use to show the proper evidence.

Question 5 of the application form submitted on 29 October 2019 confirms that the application relates to a building operation.

Question 7 of the application form submitted on 29 October 2019 confirms that the building operation was begun on 27 May 2019.

An application plan identifies the land to which the application relates as land edged red and associated documents outline in detail the works completed onsite.

Section 191 of the Town and Country Planning Act 1990 is the relevant section when dealing with issues of Certificates of Lawful Use or Development.

Up to date guidance on the issue of lawful use certificates is given in paragraph 6 of the National Planning Practice Guidance which states that the applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land.

A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

Section 56 of the TCPA concerns the time when development begun, as follows at (1) and (2). '56 (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
- (b) if the development consists of a change in use, at the time when the new use is instituted;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).

(2) For the purposes of the provisions of this Part mentioned in subsection (3) 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.'

Section 56 (4) defines the term material operation from Section 56 (2), as follows:

'56 (4) In subsection (2) "material operation" means—

- (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;

In this case, construction of part of the permitted link road has been implemented in accordance with permission 14/01431/OUT in order to confirm the commencement of development on the part of the permission granted in full in accordance with Condition 21 and Section 56 of the Town and Country Planning Act 1990 as amended.

Officers conducted site visits in May 2019 and it was found that the link road had been part constructed in accordance with the aforementioned consent.

The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that the development is considered to be lawful and acceptable and in accordance with Section 191 of the Town and Country Planning Act 1990.

**6. Recommendation**

**Lawful Use Certificate Granted**

**7. Conditions**

- 1 The evidence submitted with the application is sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, the permitted link road, as shown edged red on the plan annexed to this Certificate, was constructed prior to 8 June 2019 as required by Condition 21 of 14/01431/OUT.

**8. Informatives**

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	NO
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	NO