
Delegated report Officer: Madeleine Turner (P&DG)

Application ref. DMPN/2026/0067

Application for lawful development certificate for existing use to confirm a lawful start has been made to planning permission ref: DMPA/2021/0933 (The conversion and extension of buildings to form 4no. dwellings with associated alterations and proposed new access) at Hall Farm, Twyford Road, Twyford, Derby, DE73 7HJ

Valid date: 19/01/2026

Consults expired: 26/02/2026

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

DMPA/2021/1574- Listed Building consent for the conversion and extension of buildings to form 4no. dwellings with associated alterations and proposed new access.

DMPA/2021/0933- The conversion and extension of buildings to form 4no dwellings with associated alterations and proposed new access.

The planning history also includes a subsequent section 73 permission relating to the site. However, the applicant has confirmed that this application relates to the implementation of planning permission DMPA/2021/0933. This application is therefore limited to DMPA/2021/0933.

Responses to consultations and publicity

The application is for a lawful development certificate and therefore falls to be determined on the evidence submitted and the relevant legal tests. Publicity and consultation responses do not give rise to a planning balance in the same way as an application for planning permission. The Council's Legal Services team has reviewed the matter and advised that, subject to clarification that DMPA/2021/0933 is the permission relied upon and subject to sufficiently clear evidence of the works and their timing, demolition work is capable of constituting a material operation for the purposes of section 56(4)(aa) of the Town and Country Planning Act 1990.

Relevant policy, guidance and legislation:

- Section 191 of the Town and Country Planning Act 1990 (as amended);
- Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended;
- Planning Practice Guidance (PPG), Lawful Development Certificates

Planning considerations

The application for Certificate of Lawfulness of Existing Use falls to be considered under Section 191 of the 1990 Act. The Local Planning Authority (LPA) needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. Planning merits are not relevant at any stage. Whilst the onus is on the applicant to provide sufficiently precise and unambiguous evidence to justify the grant of a certificate, on the balance of probability, the PPG also states that if the LPA has no evidence itself, nor any from others, to contradict the applicant's case or make it less than probable, there is no good reason to refuse the application.

In this case, the issue is whether the demolition of the pig sty amounted to a material operation comprised within the development authorised by planning permission DMPA/2021/0933, and whether that operation was carried out before the expiry of the permission and after any relevant pre-commencement requirements had been satisfied. The question is not whether the demolition was

desirable in planning terms, but whether it is sufficient, as a matter of law and fact, to constitute commencement of the permission.

Planning assessment

Evidence Received

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. For both applications for existing and proposed uses applicants must provide sufficient information to support the application and describe precisely what is being applied for. In this case, as part of the original submission the applicant provided:

- Covering Letter
- Proposed Site Plan highlighting the area that was demolished
- An email from Daniel Walsh at Derby Demolition (13th January 2026) confirming that work on site commenced on 13th January 2026
- Images prior to demolition
- Images of demolition 13th - 16th January 2026
- Demolition Method Statement

Analysis and Assessment

Planning permission DMPA/2021/0933 was granted in 2021 for the conversion and extension of buildings to form 4no. dwellings with associated alterations and proposed new access. The current application seeks confirmation that this permission was lawfully commenced by the demolition of the pig sty structure identified on the submitted proposed site plan.

The certificate does not require a reassessment of the planning merits of the approved residential development. The relevant issue is whether the works relied upon were comprised within the approved development, whether they amount to a material operation for the purposes of section 56 of the Town and Country Planning Act 1990, and whether they were undertaken at a time when the permission was capable of lawful implementation.

Consideration of Evidence

Officers from the Council's Planning and Legal Services teams have reviewed the evidence submitted in support of this application. It is considered that the combination of discharged pre-commencement conditions and dated photographic evidence demonstrates, on the balance of probability, that the removal of the pigsty took place prior to the expiry of planning permission and constitutes a material commencement of development.

The Council has reviewed the position in relation to conditions attached to DMPA/2021/0933. The evidence available to the Council, including its own discharge of condition records and the advice of Legal Services, confirms that the relevant pre-commencement conditions or requirements necessary to allow the commencement works relied upon had been discharged or complied with before the relevant demolition works were completed and before the expiry of the permission. The necessary steps to enable lawful commencement were therefore undertaken.

It is also noted that a subsequent planning permission has been granted at the site; however, the conditions associated with that permission have not yet been discharged. This Certificate relates solely to the implementation of permission DMPA/2021/0933. Any other planning permissions remain subject to their own time limits and are not safeguarded from lapse by this Certificate. Any further works should be carried out in accordance with the approved plans and conditions associated with permission DMPA/2021/0933.

The demolition of the pig sty is a material operation for the purposes of section 56(4)(aa) of the Town and Country Planning Act 1990. The submitted proposed site plan identifies the pig sty structure to be demolished, and the demolition works relied upon therefore relate to works comprised within the development authorised by DMPA/2021/0933. The works were not merely preparatory or incidental works outside the approved scheme, but works forming part of the approved development.

The submitted photographs are clearly dated and show progressive stages of demolition. These are considered credible and consistent and are sufficient to demonstrate, on the balance of probabilities, that the works took place within the relevant timeframe and constituted a material start on site.

Officers were not able to inspect the pig sty before demolition took place. However, a lawful development certificate can be determined on the basis of submitted evidence, provided that evidence is sufficiently precise and unambiguous. In this case, the dated photographic evidence is supported by correspondence from Derby Demolition confirming that works started on 13 January 2026. This evidence is consistent with the applicant's covering letter and the submitted demolition method statement.

The applicant is required to provide sufficiently precise and unambiguous evidence to justify the grant of a certificate. In this case, the Council has no evidence, either from its own records or from any other party, which contradicts the applicant's case or makes it less than probable. Taken as a whole, the submitted evidence demonstrates, on the balance of probability, that demolition works to the pig sty were undertaken between 13 and 16 January 2026, after the relevant pre-commencement requirements had been satisfied and before the expiry of planning permission DMPA/2021/0933. It is therefore concluded that a lawful material start was made to planning permission DMPA/2021/0933 within the relevant period.

Recommendation

Grant lawful development certificate.

The Council is satisfied, on the balance of probability, that planning permission DMPA/2021/0933, for the conversion and extension of buildings to form 4no. dwellings with associated alterations and proposed new access at Hall Farm, Twyford Road, Twyford, Derby, DE73 7HJ, has been lawfully commenced by the carrying out of a material operation comprising the demolition of the pig sty structure identified on the submitted proposed site plan.

The certificate relates only to the lawful commencement of planning permission DMPA/2021/0933. It does not certify commencement of any subsequent section 73 permission and does not discharge, vary or remove the need to comply with any remaining conditions attached to DMPA/2021/0933.

Report agreed:	01/06/2026
Authorised officer:	Steffan Saunders
