

**Delegated Report**  
1-23, St Winifreds Close, Chigwell, IG7 5PU  
EPF/1179/25

## **Site and Surroundings**

The application site is an elongated irregular shaped site forming the majority of St. Winifred's Close located on the south side of Manor Road within the built up area of Chigwell. The site is fairly narrow at the north of the site (14m) widening to some 55m to the south. There are two existing blocks of flats one three storey, one part two storey/part three storey (built in the early 1960's) set at right angles to each other at the southern end of the site.

## **Proposal**

The Certificate is sought on the basis that development approved under planning permission EPF/0269/19 approved on 8 October 2021 has commenced between 8 October 2021 and 7 October 2024 under Section 56 (4) of Town and Country Planning Act.

## **Relevant Planning History**

EPF/0269/19 Approved 8 October 2021  
Erection of an additional floor at third floor level to accommodate 5 x 2 bedroom apartments with associated amenities

## **Applicant's Evidence**

- Completed CLOPUD Application Form
- Planning Statement
- Site Location Plan
- Building Regulations Initial Notice
- Fire Strategy
- Lift Quote
- Correspondence with Street naming and Numbering
- Construction Method Statement
- Welfare Plan
- Scaffolding Drawings
- Photos of car parking in St Winifred's Close
- Arb Method Statement
- Copy of New Home Warranty Insurance Cover
- Receipt for UU Payment
- Letter to EFDC S106 officer
- Architects Letter
- Invoice for construction drawings
- Asbestos Review

## **Summary**

The applicant is responsible for providing sufficient information and evidence to support an application. Any evidence provided by the applicant should be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

The Council is directed to grant a Certificate subject to the above test, provided they are not in possession of evidence of their own that contradicts or undermines the applicant's evidence.

In this instance, the applicant must demonstrate whether, on the balance of probability, there was a 'material operation' within the application site that triggered the commencement of the

planning permission granted 8 October 2021 in respect of the erection of an additional floor at third floor level to accommodate 5 x 2-bedroom apartments with associated amenities.

The Town and Country Planning Act Section 56 - Time when development begun:

(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.

(3) The provisions referred to in subsection (2) are sections 61L(5) and (7), 85(2), 86(6), 87(4), 89, 91, 92 , 94 and 108(3E)(c)(i).

(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;
- (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.

(5) In subsection (4)(e) "material development" means any development other than-

- (a) development for which planning permission is granted by a general development order or a local development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;
- (b)development of a class specified in paragraph 1 or 2 of Schedule 3; and
- (c)development of any class prescribed for the purposes of this subsection.

(6) In subsection (5) "general development order" means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.

## **Assessment**

The applicant has provided a Planning Statement with this application. In it they state with reference to determining whether the planning permission has been implemented

*"The issue with this type of application is that no foundation works are required and preparation is off site and manufacture off site this is sufficient to enable pre commencement as has the preparation within the site accepting roof space additions".*

The definition of development and material operation is clearly set out within the Town and Country Planning Act (The Act). The manufacturing off site of prefabricated units does not accord with any of the definitions of development as set out within the Act

The applicant has provided a copy of the Initial Notice dated 22 April 2024. The acceptance of the Initial Notice (ref BR311008) would not in itself constitute commencement of the development.

The payment of the Unilateral Undertaking attached to the planning permission is not development.

A letter has been provided from Blueline Architectural Consultants Limited where they state they have been instructed by the applicant to discharge the planning conditions and obtain building regulation approval for the approved development. The letter is dated 15 January 2025 and refers to the flats being of a prefabricated nature and manufactured off site. the prefabrication of the flats in a factory or facility off site does not constitute development. Additionally, the discharge of conditions or obtaining of building regulation approval as stated above does not in itself constitute commencement of the development.

An invoice dated 16 February 2024 has been provided for construction drawings. The creation or payment for drawings does not constitute development.

A set of scaffolding drawings have been provided these do not constitute development nor does any erection of scaffolding.

A copy of a Lift Quote has been provided. The address on the quote is not the same as the application site and the correspondence itself is a quote not evidence that the lift was installed. Notwithstanding any queries as to whether the installation of a lift was material operation.

A copy of the Fire Strategy has been provided. This document is not dated. In any event the submission or creation of a Fire Strategy does not amount to development.

A new home warranty insurance document for the approved development has been provided this is undated and does not provided evidence that works have commenced nor does it constitute development within the wording of the Act.

An asbestos review has been provided dated 2020 which is prior to the determination date of the application. In any event any surveys for asbestos on the site do not amount to development or material operation.

A welfare plan and construction method statement are also submitted. These show how the site would be managed and laid out in the construction period. They do not constitute to development.

Correspondence and a copy of the application to Street Naming and Numbering between the applicant and the Council has been submitted. Firstly, this is not evidence that the planning permission was commenced and secondly the email is dated 18 February 2025.

Several undated photos have been provided showing works undertaken in the car park to create the additional parking spaces required for the approved development. Whilst the creation of the parking bays would be considered a material operation the one dated photograph shows that it was taken on 20 June 2025. Given the date the photo was taken this cannot be used as accurate evidence that these works, or a 'material operation' commenced prior to 7 October 2024.

Aerial photographs of the site available to the Council have been investigated too. No obvious signs of any work have been identified on the site on aerial photographs from 2021, 2022 and 2024.

There is no evidence provided or obtained by the Council that there has been any 'material operation' carried out within the site that would trigger S.56 of the Town and Country Planning Act 1990. The Council is therefore of the view that no physical work was carried out within the site required by S.56 (4) subsection (2) of the Town and Country Planning Act to confirm the commencement of the approved development between 8 October 2021 and 7 October 2024.

## **Conclusion**

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 reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Following the assessment of the submitted evidence, it is concluded that the evidence is insufficiently precise and unambiguous to support the grant of a certificate on the balance of probability. The Council is not satisfied that commencement of the approved development (for 5no. flats, approved under EPF/0269/19), by way of a material operation under section 56(4) Town and Country Planning Act 1990, has taken place between 8 October 2021 and 7 October 2024.