

Delegated Application Report

Site Address: Former Gas Works Building, Gas Works Road, Reading, RG1 3EE

Application No: PL/24/1291

Proposal: Certificate of Lawfulness for existing use as 20 residential units (Class C3) by virtue of the lawful commencement of planning permission 160378, as granted on 28/10/2016.

Date of submission: 01/10/2024

Target decision date: 26/11/2024

Case Officer: Jonathan Markwell

1. Site Description and Surrounding Area

- 1.1 The application site is located on the north-west side of Gas Works Road, comprises two buildings and is roughly triangular in shape. The main building, a former social club building, forms the northern boundary of the site, abutting the River Kennet, and is two storeys in height. It would appear that a single storey side wing on the western boundary of the building was demolished at some point in time prior to 4th June 2019. The second building is a smaller single storey former Southern Gas Network governor house building containing a pressure reducing station (PRS), fronts onto Gas Works Road and forms a section of the southern boundary. An existing red brick wall forms the remainder of the southern boundary.
- 1.2 The site is vacant, containing hardstanding and scrub vegetation, as well as the dilapidated buildings. Access to the buildings is not possible owing to health and safety concerns. The site has planning permission for change of use, conversion, extensions and associated works to provide 20 dwellings under ref 160378 (see history below).
- 1.3 The application site was added to Reading Borough's List of Locally Important Buildings on 22nd June 2022 (Ref LL22 – Gas Works Social Club, Gas Works Road). The local listing specifies the following:

The buildings on the site are of different ages but all are from within the period 1840-1913. The social club was in use until c. 1993. In 1862 the Reading Gas Light Company and the Reading Union Gas Company merged. The social club and governor house are on part of the original gas production site for the Reading Union Gas Company, between the arms of Kennet & Avon Canal next to Huntley & Palmers factory.

One of the industrial buildings on the site, dating from at least the third quarter of the nineteenth century, was converted into a social club to which in 1912 a second storey was added and other improvements made to mark the 50th anniversary of the company. The work was carried out by local builder Francis Newberry using as many recycled materials as possible e.g. slates. Arches and overhanging courses in best blue Staffordshire brick and blue brick were used to match the existing building.

The Gas Governor House, closest to Gas Works Road, was built in 1903 to replace an older building on the other side of the road. The building has a more utilitarian appearance than the social club. The walls only use one colour of red brick but hidden under the modern white cladding around parapet is a band of black moulded bricks. The lintel over the door states 'Erected 1903, J Okey Taylor, JP chairman. Douglas R Helps, Engineer'. The architects could have been Willcocks & Greenaway who were in partnership between 1919-1931.

Willcocks was the architect for Arthur Hill baths (1911) and with Greenaway worked on the restoration of Watlington House (1929/31).

The two buildings on the site, the boundary walls and the bridge over the Kennet constructed to access the new gas works down river at King's Mead, are the only physical remain of gas production in Reading. The last gas holder at King's Mead has now been dismantled so that the site can be developed for housing. Other industrial heritage in the area includes the locally listed former Huntley & Palmers Social Club building and the cluster of Grade II listed buildings and structures associated with Blakes Lock Sewage Pumping Station.



Site photographs 04/10/2024



- 1.4 In an update report presented to Planning Applications Committee on 22nd June 2022, when the decision was made to locally list the building, the status of permission 160378 was summarised as follows:

Change of use, conversion, extensions and various associated works to former Gas Works Buildings to create a part 4,5 and 6 storey building adjacent to the River Kennet and a 3 storey building fronting Gas Works Road, providing 20 (10x1, 9x2 and 1x3-bed) residential units (Class C3).

- 1.3 Planning permission was issued with a s106 legal agreement on 28 October 2016 giving the expiry date for implementation as 28 October 2019. On inspection of the material on the planning history files, officers advise that some works have occurred with the demolition of a side wing; however, as some of the pre-commencement conditions are outstanding it is not clear if it can be stated that the permission has been implemented. It has previously been advised to the owners of the site that the status of this planning permission - ie. whether it has been implemented or not - should be confirmed and the formal opinion of the Local Planning Authority clarified, through the submission of a Certificate of Lawful Existing Use or Development application. This has not been done to date.
- 1.4 Therefore, officers cannot confirm that there is an extant planning permission for the site. However, even if there is, this extract from the Committee Report presented to PAC on 12th October 2016 makes clear that the preference was to retain the existing building:

- 1.5 The application site is located within the Reading Central Area, albeit it is located outside of any major opportunity area or specific site designation. The site is however referenced at paragraph 5.4.39 of the Local Plan as another site within Central Reading, in addition to the allocated sites, which had planning permission for 10 or more dwellings (Former Gas Works Building, Gas Works Road, 160378, Change of use and extension for 20 dwellings).
- 1.6 In addition, the site is also located within a potential area of both contaminated land (Policy EN16) and archaeological remains (Policy EN2). It is partly within an air quality management area (Policy EN15) and also flood zones 1, 2 and 3 at different points (Policy EN18). The adjacent River Kennet is an area of identified biodiversity interest (Policy EN12)
- 1.7 The surrounding area comprises a mix of uses, building types and heights. To the north, beyond the river is the under construction and nearing completion Huntley Wharf development (approved in 2018), which is a residential-led development of 765 residential units in buildings up to a height of 11 storeys. To the north-east, again beyond the river, is the Meridian residential block, which fronts onto Kenavon Drive and is up to seven storeys in height (approved in 2003). To the east, beyond Gas Works Road (where a vehicular controlled bridge links Gas Works Road to Kenavon Drive beyond), is the residential Blakes Quay, which steps up in height away from the application site from three to seven storeys (approved in 2002). To the south is Harry Tee Court, a modest two storey residential element fronting onto the river and with parking adjacent to the Gas Works Road frontage. To the south west is a public footpath leading down to the river edge, adjacent to the boundary with the former Prudential office building (for which prior approval for residential use was given in September 2024), which is five/six storeys in height and fronts onto Kings Road. Vehicular access to the former Prudential car park is located adjacent to boundary of the application site off Gas Works Road.

2. Proposal

- 2.1 A certificate of lawfulness (existing) is submitted seeking confirmation as to whether application reference 160378 has lawfully commenced. This permitted the following development on 28th October 2016:

Change of use, conversion, extensions and various associated works to former Gas Works Buildings to create a part 4,5 and 6 storey building adjacent to the River Kennet and a 3 storey building fronting Gas Works Road, providing 20 (10x1, 9x2 and 1x3-bed) residential units (Class C3).

2.2 In effect, the applicant is therefore seeking for it to be confirmed that development is in accordance with condition 1 of planning permission reference 160378, which states:

1. *The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which permission was granted.*

Reason: To prevent an accumulation of unimplemented planning permissions, and in accordance with section 91 of the Town & Country Planning Act as amended by the Planning and Compulsory Purchase Act 2004.

2.3 In support of this application the following has been submitted:

- Site Location Plan, dated June 2014
- Letter by Hollins Planning 'Reading Planning' dated 27/09/2024
- Email from Reading Borough Council to Quantuma dated 20/01/2021

As all received on 01/10/2024

3. Relevant Planning History:

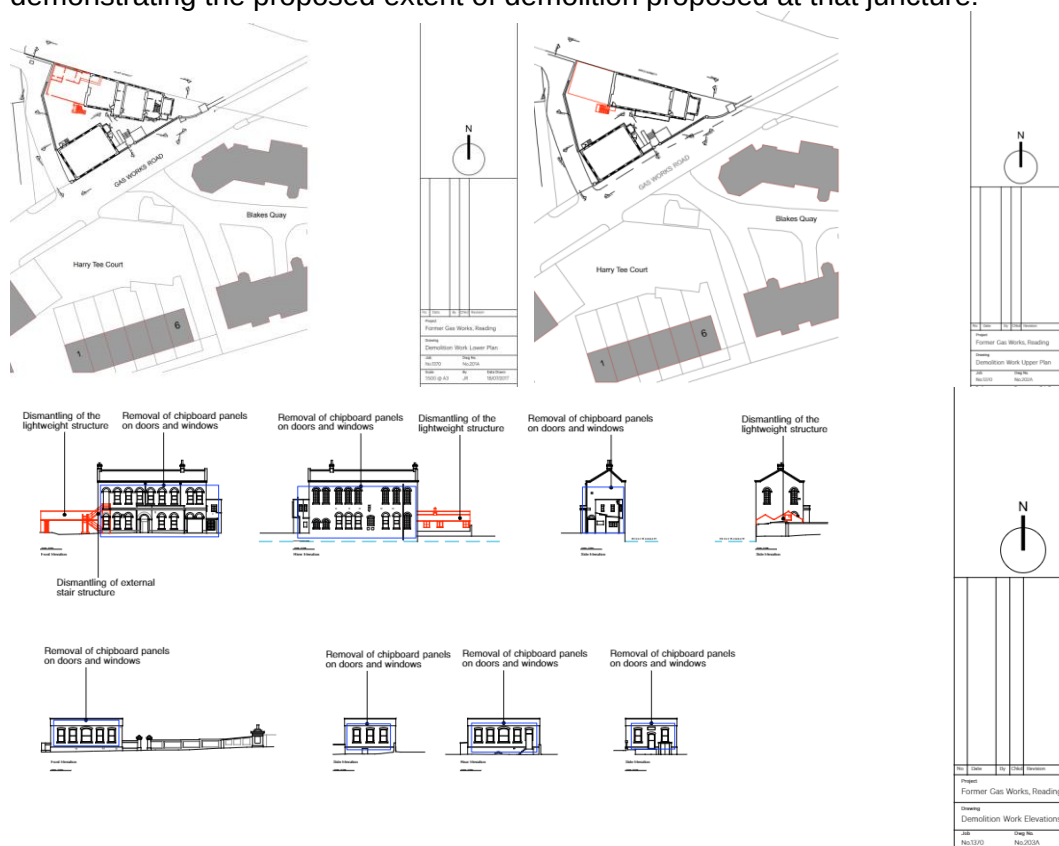
- 3.1 160378 - Change of use, conversion, extensions and various associated works to former Gas Works Buildings to create a part 4,5 and 6 storey building adjacent to the River Kennet and a 3 storey building fronting Gas Works Road, providing 20 (10x1, 9x2 and 1x3-bed) residential units (Class C3). Granted following completion of legal agreement 28/10/16.
- 3.2 171160 - Partial discharge of condition 4 (Construction Method Statement) for initial demolition works associated with planning permission 160378. Partially discharged 21/09/17.
- 3.3 For clarification, this related to the initial demolition works associated with the development only; consequentially condition 4 was only partially discharged at that time. A further submission, covering all works beyond the initial demolition works stage approved, was specified as being required to be submitted to and approved in writing by the local planning authority in due course to enable the whole of condition 4 to be discharged. The above was stated on the decision notice.
- 3.4 The approved Demolition Method Statement Rev D confirmed the following:

Summary of works to be carried out

The works comprises of the internal demolition of walls and slabs, removal of windows and doors as well as the dismantling of the lightweight structure of the building next to River Kennet.

It's the intent to start the demolition work after the completions of the asbestos survey specialist contractors have remove all asbestos, in accord with their recommendations and once the survey work recommended by the ground contamination and gas consultant is complete.

- 3.5 Shown below are extracts of plans included on the decision notice for this application, demonstrating the proposed extent of demolition proposed at that juncture:



- 3.6 171495 - Discharge of condition 3 (materials) of planning permission 160378. Discharged 19/10/17.
- 3.7 171596 - Discharge of condition 13 (landscaping) of planning permission 160378. Discharged 15/11/17.
- 3.8 171767 - Discharge of condition 12 (noise assessment) of planning permission 160378. Discharged 01/12/17.
- 3.9 172174 - Discharge of condition 15 (sustainable drainage scheme) of planning permission 160378. Discharged 16/01/18.
- 3.10 172304 - Partial discharge of condition 4 (Construction Method Statement) and discharge of conditions 5 (Contaminated Land) & 9 (Land Gas) of planning permission 160378. Partially discharged 08/02/18.
- 3.11 In relation to condition 4, the following was stated on the decision notice: *In conjunction with approval of details 171160 (Construction Method Statement details for initial demolition works only) granted on 21/09/17 it is confirmed that condition 4 is now discharged in full.*
- 3.12 An extract within the approved CMS suggests partial demolition works took place in October 2017:

#	Traits	Title	Given Work	Given Earliest Start	WK 40, 2	WK 41, 9 October										WK 42, 16 October										WK 43, 23 October										WK 44, 30 October				
					7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	1	2	3	4							
0	🔍	Former Gas Works Buildings - Preliminary Programme		16/10/2017	Former Gas Works Buildings - Preliminary Programme																																			
1		Enabeling																		Enabeling																				
2	🔍	Site Set Up	1 day	16 Oct 2017																Site Set Up																				
3	🔍	Soft Strip	2 weeks	17 Oct 2017																Soft Strip																				
4	🔍	Partial Demolition	2 weeks	17 Oct 2017																Partial Demolition																				
5	🔍	Geo-Technical Tests		7 Nov 2017																																Geo-Te				
6	🔍	Geotechnical Tests	8 weeks	7 Nov 2017																																Ge				
7	🔍	Trial Pits	1 day	7 Dec 2017																																				
8		Demolition																																						
9	🔍	Slabs Demolition	6 weeks	8 Jan 2018																																				
10	🔍	Substructure		5 Feb 2018																																				
11	🔍	Site Clearance	1 week	5 Feb 2018																																				
12	🔍	Underpinning	2 weeks	12/02/2018																																				
13	🔍	Localized Excavation	2 weeks	12/03/2018																																				
14	🔍	Spoil Removal	1 day	26/02/2018																																				
15	🔍	Foundations & Beam and Block Slab	4 weeks	27/02/2018																																				

- 3.13 180362 - Partial discharge of condition 6 (Remediation scheme) of planning permission 160378. Partially discharged 09/04/18.
- 3.14 In relation to condition 6, the following was stated on the decision notice: As agreed in dialogue with Senior Environmental Health Officer Ross Jarvis, this submission discharges the remediation strategy. A further submission will be required in due course to discharge condition 6 in full, which as Wardell Armstrong LLP has indicated in its letter dated 06/04/18 above, will also include a timetable of works and site management procedures. As such, this information is presently outstanding and will require a future separate submission to the local planning authority in the future, prior to condition 6 being discharged in full.
- 3.15 In addition, for your information in relation to contaminated land matters, a further approval of details application will be required in due course (prior to the first construction of the development) in relation to condition 7 (validation report). In addition, should not previously identified contamination subsequently be found, further details would be required to be submitted and approved in line with condition 8.
- 3.16 Within the document submitted with this application, it is stated that the single storey side wing had been demolished:

Proposed Site Use

- 1.3 It is proposed to redevelop the site for residential use with gardens. The planning application (no. 160378) is for the creation of 20 residential units through the extension and conversion of the two existing buildings. The largest building, in the north along the river, will be extended to the west and upwards and will have flats on five levels. One flat is proposed to have a private garden. The ground floor level of the larger building (known as the River Kennet Building) will be reduced by up to 0.8m and the lowest level will now be used for cycle storage (not habitable dwellings). The smaller building, in the southwest of the site (known as Gas Works Road (GWR) Building), has an existing basement, although it will not be retained in the proposed development. The existing floors to both buildings have been removed and the proposed development includes beam and block floors with an underfloor void. A communal landscaped area is proposed between the two buildings. **The single storey part of the largest building has been demolished as part of site clearance works.** It is understood that no further demolition will be taking place.

- 3.17 180401 - Discharge of condition 14 i) (final design stage BREEAM assessment) of planning permission 160378. Discharged 14/03/18.
- 3.18 180730 - Non-material amendments to planning permission 160378 (3-6 storey buildings to provide 20 residential units), namely fenestration alterations, altered position of PV panels and dormers at roof level, provision of glass juliet balconies, rooflights and associated works. Agreed on 29/05/18.

4. Relevant Planning Policy & Guidance:

- 4.1 Town and Country Planning Act 1991 (as amended) Section 191 – the relevant sections of which are as follows:

191 Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

(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, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if—

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

[F3(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.]

(4) 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.

4.2 NPPF Planning Practice Guidance – Lawful Development Certificates - ID: 17c

This provides guidance on all aspects of lawful development certificates, including:

How is lawfulness defined in relation to lawful development certificates?

The statutory framework covering “lawfulness” for lawful development certificates is set out in section 191(2) of the Act. In summary, 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.

An enforcement notice is not in force where an enforcement appeal is outstanding or an appeal has been upheld and the decision has been remitted to the Secretary of State for redetermination, but that redetermination is still outstanding.

Paragraph: 003 Reference ID: 17c-003-20140306 Revision date: 06 03 2014

Who is responsible for providing sufficient information to support an application?

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.

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.

Paragraph: 006 Reference ID: 17c-006-20140306 Revision date: 06 03 2014

How is an application for a lawful development certificate determined?

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

Paragraph: 009 Reference ID: 17c-009-20140306 Revision date: 06 03 2014

How does a lawful development certificate relate to conditions on an existing planning permission?

A lawful development certificate may be granted on the basis that there is an extant planning permission for the development; however, that development still needs to comply with any conditions or limitations imposed on the development by that grant of permission, except to the extent specifically described in the lawful development certificate.

Paragraph: 011 Reference ID: 17c-011-20140306 Revision date: 06 03 2014

- 4.3 The matter to be determined is solely on the basis of evidential fact and planning law. The planning merits of the use are not relevant and therefore are not considered in the consideration of the application.

5. Consultation Responses:

5.1 RBC Legal Services

- 5.2 Based on all the documentation, evidence and all other elements of the officer report, the analysis and conclusion is agreed and no concerns are raised with the officer recommendation that this application be granted.

5.3 RBC Infrastructure and Monitoring Officer

- 5.4 Confirmed the following:

- No Community Infrastructure Levy (CIL) payment has been made in respect of permission 160378, with no assumption of liability having been received from any landowner, nor any Commencement Notice for the development.
- No information has been submitted to satisfy clauses 2.5b or 2.5c of the unilateral undertaking secured as part of permission 160378 at the site, which were both pre-commencement matters:

2.5 The Owner covenants with the Council:

- (a) to pay the Affordable Housing Contribution as increased by the indexation provision in Clause 2.6 to the Council no later than the date of first Occupation of a Dwelling to be Occupied and not to Occupy any Dwelling until such payment has been made to the Council in full including any interest due thereon under the terms of this Unilateral Undertaking;
- (b) to pay the Employment Skills and Training Contribution as increased by the indexation provision in Clause 2.6 to the Council on or prior to the Commencement Date;
- (c) to give at least five Working Days written notice to the Council of the Commencement Date and the date of the first Occupation of the first Dwelling to be Occupied which notices shall be given to the Head of Planning, Development and Regulatory Services at Civic Offices, Bridge Street, Reading, RG1 2LU

6. Appraisal

- 6.1 In support of the proposal, the applicant has submitted a site location plan supporting letter, which references an email from the RBC Planning Officer dated 20/01/2021. The applicant states:

In support is an email from the original case officer (dated 20th January 2021). The email examines in detail whether a material start has been made on site. The officer concludes that in their opinion the development has commenced within 3 years of the date of the permission being granted.

The main reason why the officer believes the development has been implemented relates to the demolition of a side wing.

The officer refers to the demolition of this element as being part of an application that was approved to partially clear the demolition condition (condition 4) attached to the original consent (ref 171160).

- 6.2 Extracts of plans submitted to “partially clear the demolition condition (condition 4)”, i.e. to partly discharge initial demolition works as part of the wider construction method statement (see paragraphs 3.2 – 3.5 above for details) are then provided. The applicant continues:

According to the case officer’s email they took photos of the site on 17th September 2015 which showed the side wing still being present on site and then another photo taken on 4th June 2019 which shows that the side wing has been demolished. They also refer to photos in the original committee report which show this side wing in situ. As can be seen the aerial photo is taken from the committee report and it is possible to see the side wings.



Extract from 2016 committee report (application ref 160378).

In their opinion this constituted a material start.

Copies of these photos taken by the officer are not available. However, the following ariel photos of the site from google earth also support the timelines stated by the officer. The following photo dated 25th March 2017 the roof of the side wing is clearly visible.



However, as the following aerial views from 2018 detail, the side wing extension has been demolished and all that can be seen is the hardstanding.



As detailed in the email, with the exemption of condition six, (contamination) this has been partially discharged and condition 10, (land gas scheme), all of the pre commencement conditions have been cleared.

The case officer state that it may be possible to clear the outstanding conditions retrospectively.

In the context of condition 6 the remediation measures have been cleared, it is just the timetable of work and management procedures that needs to be agreed. Similarly, condition 10 is linked to condition 9 (land gas investigation) and this has been cleared. Elevated levels of methane have been discovered and a remediation scheme needs to be provided. Again, this can be cleared quickly and as per the wording of this condition it can be implemented in accordance with the approved details prior to the occupancy of the development.

I hope the council can favourably consider this application and determine that the development has lawfully commenced. However, if you need anything else, or have any questions, please do not hesitate to get in touch.

6.3 A full copy of the email, as submitted by the applicant, is reproduced below:

From: Markwell, Jonathan [mailto:Jonathan.Markwell@reading.gov.uk]
Sent: 20 January 2021 10:44
To: Michael Hall <Michael.Hall@quantuma.com>
Subject: RE: Former Gas Works, Gas Works Road Reading RG1 3EE. Planning approval 160378

Dear Mr Hall,

Thank you for your email. I did call you on Monday and left a voicemail message prior to your email.

In short, it would appear to me that permission 160378 has been partially implemented (with the demolition of a side wing to the building fronting the river) and therefore is valid and can be implemented in full at any point in the future. There is however one caveat that one of the pre-commencement conditions attached to 160378 has not yet been discharged (condition 10) and another has only been partially discharged (condition 6), so strictly speaking development has commenced prior to a pre-commencement condition being discharged (thereby putting into question its lawfulness and validity), but it could be that these conditions could be discharged retrospectively.

More specifically, whilst the three year time period for implementation (condition 1 of planning permission 160378, dated 28/10/2016) passed on 28/10/2019, it is clear to me that at least some of the initial demolition works (which would constitute the commencement of development and thereby allow the permitted development to take place at any time in the future) as part of the partial discharge of condition application 171160 have taken place at the site. Please see attached site photographs I took on 17th September 2015 showing the side wing building being present, and another without it as taken on 4th June 2019 (prior to the 3 year expiry deadline). This part of the building was specified as being part of the initial demolition works approved by application 171160 (full details are on the [Council's website](#)). Demolition at this part of the site is backed up with comparison aerial photographs at the time of the original permission (within the officer committee report) and those presently available on line.

Please see below a schedule of the conditions from permission 160378 which required details to be submitted/approved and the current status of each condition:

Pre-commencement conditions outstanding:

- Part of condition 6 (contaminated land remediation scheme)
- Condition 10 (land gas scheme)

The following pre-construction condition is outstanding:

- Condition 7 (contaminated land validation report)

The following pre-occupation conditions are outstanding:

- Condition 11 (land gas validation)
- Condition 14ii (BREEAM)
- Condition 20 (postal addresses)

Please see below a schedule of all conditions which require the submission of details to the local planning authority:

Condition	Status
3 – materials (pre-commencement)	Discharged 19/10/17 by application 171495
4 – construction method statement (pre-commencement)	Partially discharged 21/9/17 by application 171160. Discharged in full on 8/2/18 by application 172304
5 – contaminated land assessment (pre-commencement)	Discharged 8/2/18 by application 172304
6 – contaminated land remediation scheme (pre-commencement)	Partially discharged 9/4/18 by application 180362
7 – contaminated land (pre-construction)	Not yet submitted.
9 – land gas investigation (pre-commencement)	Discharged 8/2/18 by application 172304
10 – land gas scheme (pre-commencement)	Not yet submitted.
11 – land gas validation (pre-occupation)	Not yet submitted.
12 – noise (pre-commencement)	Discharged 1/12/17 by application 171767
13 – landscaping (pre-commencement)	Discharged 15/11/17 by application 171596
14i – BREEAM (pre-commencement)	Discharged 14/3/18 by application 180401
14ii – BREEAM (pre-occupation)	Not yet submitted.
15 – drainage (pre-commencement)	Discharged 16/01/18 by application 172174
20 – postal addresses (pre-occupation)	Not yet submitted.

More details on each application, including decision notices and the approved information, is available [via the website](#) using the above reference numbers.

In addition, a non-material amendments application (Ref 180730) was agreed on 29/05/18.

Should you wish to gain a formal decision of the local planning authority as to whether 160378 has been implemented, I would suggest that you explore submitted a certificate of lawfulness application to the local planning authority.

Please note that the advice contained within this email is that of an officer of the Borough Council and is provided without prejudice to the decision of the Borough Council, in the event of a formal application for planning permission. This advice is in good faith and will not over-ride the formal consideration of a planning application by the Council.

Yours sincerely,

Jonathan Markwell
Principal Planning Officer
Planning Section | Directorate for Economic Growth and Neighbourhood Services

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In addition, please note that the advice contained within this email (and attachments – if applicable) is that of an officer of the Borough Council and is provided without prejudice to the decision of the Borough Council.

6.4 Officer assessment

6.5 The case officer has site photographs of the site at various times. In 2015 and 2016 it was seen that the side wing was in position at the site, as shown below. However, on 04/06/2019, the photograph below demonstrates that this side wing evidently no longer in place, with only the secondary building (which fronts onto Gas Works Road) being visible. The 2015 and 2019 photographs are those referenced in the email from the case officer, as provided by the applicant, but was not included in the applicant's submission.

Below: Officer site photo 17/09/2015 (side wing still in place)



Below: Officer site visit photos 07/04/2016 (side wing still in place):





Below: Officer site photo 04/06/2019:



The side wing is evidently no longer in place, as per the zoomed in extract below.



- 6.6 Based on these photographs, together with the aerial images from 2018 provided by the applicant, it is evident that the side wing was demolished at the site. This evidently took place at some time between 25/03/2017 and 23/06/2018, based on the dates of the aerial viewpoints provided by the applicant. This aligns with information stated with approval of details application 172304 (received on 20/12/2017 and determined on 08/02/2018), with documentation (see paragraph 3.10 – 3.12 above) suggesting partial demolition works took place in October 2017. In addition, information submitted with 180362 (received on 26/02/2018 and determined on 09/04/2018) included commentary specifying the side wing had been demolished (see paragraphs 3.13 – 3.16 above for details).
- 6.7 The timing of the demolition works is therefore shown to have taken place within 3 years of permission 160378 being granted on 28/10/2016. Mindful that the demolition of buildings constitutes a building operation as per the section 55(1) of the Town and Country Planning Act 1990 (as amended) definition of development (“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”), the demolition works undertaken at the site constitute the commencement of development, with operational development having occurred.
- 6.8 It is also acknowledged that not all of the pre-commencement planning conditions have been discharged. Whilst conditions 3 (materials), 4 (construction method statement), 5 (contaminated land assessment), 9 (land gas site investigation), 12 (noise assessment), 13 (landscaping), 14i (BREEAM) and 15 (SuDS) were satisfied within 3 years of the permission (see section 3 above), condition 6 (contaminated land remediation scheme) was only partly discharged through application 180362, whilst condition 10 (land gas protection scheme) has not been discharged.
- 6.9 More specifically, in respect of condition 6, this follows on from the contamination land assessment approved as part of application 172304 at the site. Details were subsequently submitted under application 180362 for condition 6 (full wording below):

6. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas in terms of contaminated land, in accordance with Policy CS34 of the Reading Borough LDF Core Strategy 2008 (Altered 2015), Policy RC9 of the Reading Borough LDF Reading Central Area Action Plan 2009 and Policy DM4 of the Sites and Detailed Policies Document 2012 (Altered 2015).

- 6.10 As part of the assessment of the submission, the Council’s Environmental Protection Officer made clear which parts of the condition were discharged (the remediation strategy itself) and which components would require a separate later submission to

satisfy the condition in full (timetable of work and site management procedures – as referenced in the wording of the condition). This is detailed on the decision notice extracted below. In the context of the condition as a whole, it is considered that these are relatively minor details, with the remediation strategy itself being the major component. Accordingly, the outstanding detail is not considered to go to the heart of the permission in this instance.

I refer to the above application to partially discharge planning permission condition 6 (Remediation scheme) of planning permission 160378 and respond as follows:

Condition 6 (Remediation scheme)

The remediation scheme details, as shown on the following:

Detailed quantitative risk assessment and remediation strategy report dated February 2018 Ref RPT003 V0.1 by Wardell Armstrong, as received 26/02/18

Letter from Wardell Armstrong Ref ES/AS/LO10488/001, dated and received 06/04/18

are approved pursuant to the partial discharge condition 6.

As agreed in dialogue with Senior Environmental Health Officer Ross Jarvis, this submission discharges the remediation strategy. A further submission will be required in due course to discharge condition 6 in full, which as Wardell Armstrong LLP has indicated in its letter dated 06/04/18 above, will also include a timetable of works and site management procedures. As such, this information is presently

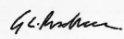
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outstanding and will require a future separate submission to the local planning authority in the future, prior to condition 6 being discharged in full.

In addition, for your information in relation to contaminated land matters, a further approval of details application will be required in due course (prior to the first construction of the development) in relation to condition 7 (validation report). In addition, should not previously identified contamination subsequently be found, further details would be required to be submitted and approved in line with condition 8.

The above conditions, where a submission is required and has been provided, shall have been considered to have been discharged, providing that the development is undertaken in accordance with the approved details.

- 6.11 In terms of condition 10, this follows on from condition 9 (full wording extracted below), whereby a detailed land gas site investigation has been carried out and approved at the site to identify the respective risks.

9. No development shall take place until a detailed land gas site investigation has been carried out by a competent person to fully and effectively characterise the nature and extent of land gas and its implications. The method and extent of this site investigation shall be agreed in writing with the Local Planning Authority prior to commencement of the work and shall then proceed in strict accordance with the measures approved.	
Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas due to the presence of land gas, in accordance with Policy CS34 of the Reading	
Date: 28th October 2016	
	Head of Planning, Development & Regulatory Services
	LEB
 Reading Borough Council Working better with you	
Borough LDF Core Strategy 2008 (Altered 2015), Policy RC9 of the Reading Borough LDF Reading Central Area Action Plan 2009 and Policy DM4 of the Sites and Detailed Policies Document 2012 (Altered 2015).	

- 6.12 These details were approved under application 172304, with the decision notice stating:

Condition 9

The Senior Environmental Health Officer has commented as follows: A land gas investigation has been carried out. It has identified elevated levels of methane which result in the site being considered characteristic situation 2. The details of how the development will be protected to this level must now be submitted. I can recommend that condition 9 is discharged.

Accordingly the land gas details, as shown in the following document:

Phase 2 Interpretative Site Investigation Report by Wardell Armstrong, Ref RPT002 V1.0, dated December 2017, as received 20/12/17

are approved pursuant to condition 9.

- 6.13 In this instance the scheme is considered secondary to the investigation demonstrated under condition 9. Nothing in the discharge of condition 9 indicates that it will not be possible to provide a scheme to manage the elevation levels of methane identified and therefore, again, this condition is not considered to go to the heart of the permission.

10. No development shall take place until a scheme showing how the development is to be protected against the possibility of land gas has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be fully implemented and completed before the development is first occupied and those measures incorporated into the development shall thereafter be retained unless the Local Planning Authority agrees otherwise in writing.

Reason: To ensure the development is suitable for its end use and the wider environment and does not create undue risks to occupiers of the site or surrounding areas due to the presence of land gas, in accordance with Policy CS34 of the Reading Borough LDF Core Strategy 2008 (Altered 2015), Policy RC9 of the Reading Borough LDF Reading Central Area Action Plan 2009 and Policy DM4 of the Sites and Detailed Policies Document 2012 (Altered 2015).

- 6.14 Officers are also mindful that it would no longer be possible to take enforcement action against these technical breaches of condition, as the breaches took place in 2017/2018 (from the point demolition of the side wing took place) and a 4-year period has elapsed since then without any enforcement action. In this regard officers are also mindful that The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 (made on 2nd April 2024) altered the 4-year time limit for enforcement (under section 115) to 10 years on 25th April 2024. However, the breach and 4 year time period for immunity already long passed before this legislation was introduced. Accordingly, there is considered to be no scope to take enforcement action.
- 6.15 Given the above context, based on the information provided (as outlined above), it is evident that works to implement the permission (through the demolition of the side wing of the building, most likely in October 2017, but certainly at some point between 25/03/2017 and 23/06/2018) begun within the 3 year period specified by condition 1. Whilst part of one pre-commencement condition and one other pre-commencement condition have not been satisfied, these are not considered to go to the heart of the permission and, moreover, the time period for enforcement has passed. Set against this backdrop, this should not count against this application.

7. Recommendation

7.1 Issue Certificate of Lawfulness

Reason to be stated on the decision notice

On the basis of the available evidence and on the balance of probabilities, it is considered that the development commenced in accordance with condition 1 of planning permission 160378 and is immune to enforcement action. It is therefore considered a Certificate of Lawfulness should be granted.

Informatives to be stated on the decision notice

1. As per NPPF Planning Practice Guidance – Lawful Development Certificates (Paragraph 004 ID: 17c-004-20140306) this certificate applies only to the lawfulness of the development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as Building Regulations.

2. In reaching this decision, the local planning authority has taken into account the following information submitted by the applicant:

- Site Location Plan, dated June 2014
- Letter by Hollins Planning 'Reading Planning' dated 27/09/2024
- Email from Reading Borough Council to Quantuma dated 20/01/2021

As all received on 01/10/2024

3. In light of this decision I can advise that this matter has been passed to the Council's Infrastructure and Monitoring Officer, in order to consider the implications in terms of Reading's Community Infrastructure Levy (CIL) and the legal agreement (unilateral undertaking) secured at the time of permission 150378.

Plan for second schedule of decision notice (extract from site location plan submitted with the application)

