

26 August 2026

Development Management
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
BA14 8JN

Application for Certificate of Lawful Development – The Isis, London Road, Devizes, SN10 2DS

Dear Sir or Madam

On behalf of our client, Mr G Little, we enclose for your consideration an application for a Certificate of Lawfulness of Existing Use or Development under Section 191 of the Town and Country Planning Act 1990 (as amended), in relation to development at The Isis, London Road, Devizes, SN10 2DS.

The site benefits from planning permission reference PL/2023/01776, which was granted on 1st August 2023 for *“Demolition of existing bungalow and construction of 1 No. 2 storey and 3 No. 3 storey terraced houses together with detached refuse / recycling storage outbuilding and related external works (Amendment to PL/2022/04342 for alterations to dormer arrangement on SE elevation)”*.

Condition 1 attached to the planning permission required that the permitted development should be begun before the expiration of three years from the date of the permission (i.e. by 1st August 2026).

Legislative Context

Section 191 of the Town and Country Planning Act 1990 (as amended) (“the Act”) states that if any person wishes to ascertain whether any operations which have been carried out in, on, over or under land are lawful, that person may make an application for the purpose to the local planning authority specifying the land and describing the operations in question.

Section 191(4) of the Act 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 operations described in the application, they shall issue a certificate to that effect.

Section 57(1) of the Act states that planning permission is required for the carrying out of any development of land. The meaning of development requiring planning permission is provided in Section 55(1) of the Act and it comprises two distinct elements: the making of any material change in the use of any buildings or other land; or the carrying out of building, engineering, minor or other operations in, on, over or under land.

Section 56(2) confirms that development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins. Section 56(4) defines “material operation” as:

- (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.*

Planning Practice Guidance (Paragraph: 006 Reference ID: 17c-006-20140306) confirms that the onus of proof in a Lawful Development Certificate application is on the applicant and that the relevant standard of proof is the ‘balance of probabilities’, or more likely than not. The Guidance states that an application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates.

Site Location

This application for a Certificate of Lawfulness for an Existing Use relates to The Isis, London Road, Devizes (the application property). A Site Location Plan identifying the application site accompanies this application.

Site Circumstances and Development

There are 11 planning conditions attached to planning permission PL/2023/01776. Details of the conditions and their status are as set out below.

We note that the condition numbering on the decision notice omits numbers 3, 4 and 5 and this is reflected in the details below.

- Condition 1 Time Limit – development commenced on 28th July 2026 as set out within this application.
- Condition 2 Approved Plans – compliance with listed plans and documents required.
- Condition 6 Obscure Windows – compliance required for first and second floor windows.
- Condition 7 Ground Levels – compliance required for outside ground levels.
- Condition 8 Waste Facilities – compliance required pre-occupation.
- Condition 9 Drainage – Part (i) pre-commencement discharged with Surface Water Drainage Strategy on 21st July 2026. Part (ii) requires implementation prior to occupation.
- Condition 10 Landscaping – compliance required pre- and post-occupation.
- Condition 11 Ecological Enhancement – compliance required pre-occupation.

Partners:- N. J. Dolman, B.Sc, M.R.I.C.S.
S. L. Dolman, B.Sc Hons F.C.C.A.

D. J. Nichols, B.Sc Hons IMaPS
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- Condition 12 Access and Parking – compliance required pre-occupation.
- Condition 13 Removal of PD Rights for Gates – compliance required.
- Condition 14 External Lighting – submission of details required prior to installation.

A CIL Commencement Notice was issued to the Council on 24th July 2026 confirming that the development was due to commence on 28th July 2026. This was acknowledged on 27th July 2026.

Evidence is submitted with this application to demonstrate that a trench was dug and plastic pipe laid on 28th July 2026. The trenching and laying of the pipe constitute operational development that was undertaken in accordance with the planning permission in line with the surface drainage strategy design that was approved by Condition 9(i) on 21st July 2026.

It is established by *Malvern Hills DC v SSE & Barnes and Co [1982] JPL 439* that the threshold for what is deemed to be material operations is low. Further decisions¹ have established that the digging of a trench and laying pipe for drainage can constitute commencement of development. The surface water drainage design was approved by the Council under Condition 9 and the trench and pipe shown in the submitted photographs has been dug in accordance with this drainage design.

Specifically, the photographs show the drainage run that starts at S5 shown on the extract below. This was dug with a mechanical digger to the levels specified on the drawing.

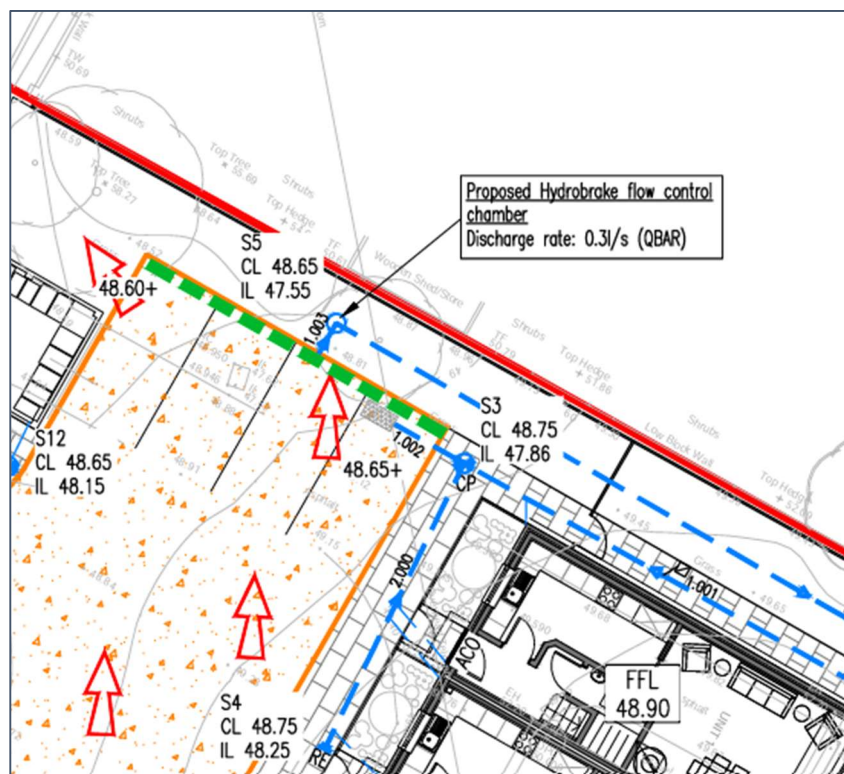


Figure 1 Extract from Surface Water Drainage Layout dwg. 11020/501

¹ Appeal Ref: APP/B2355/X/20/3257581 Land at Green Street, Rawtenstall

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Documents submitted with this application

Submitted electronically to accompany this covering letter are the following:

- Application form;
- Site location and block plan 3491-40 A;
- Decision notice PL/2023/01776;
- Condition approval for Condition 9 Part i dated 21st July 2026;
- CIL Commencement Notice acknowledgement letter dated 27th July 2026;
- Photograph sheet with photograph details noted;
- Appeal decision APP/B2355/X/20/3257581.

The requisite planning application fee has been paid directly via Planning Portal.

I trust that this submission provides sufficient information to register and assess the application. Should you require any further information or have any queries, please do not hesitate to contact me.

Yours sincerely



Charlotte Taylor-Drake

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