

Application for LDC to confirm planning permission P2008/0277 granted on 21st July 2008 was lawfully implemented and remains extant.

Background:

Planning permission was granted for "One Detached Dwelling" in July 2008 (P2008/0277), herein referred to as "the permission".

The application was a full application and was subject to 8 conditions, 3 of which were pre-commencement conditions (conditions 2, 4 and 5). The remaining conditions are not relevant for the purposes of this application.

In June 2012, I wrote to the Council to enquire whether the permission could still be lawfully implemented and was advised that conditions 2, 4 and 5 were required to be discharged. However, at this time, I was advised that the installation of the drainage system would constitute a commencement of the development.

3 separate applications were subsequently submitted to discharge these conditions (references P2013/0482, P2013/0483 and P2013/0484) on 23rd May 2013.

All three conditions were subsequently discharged on 31st May 2013, within the lifetime of the permission. It is clear therefore that the Council did not raise any issues with the details contained in the information submitted with these applications and they were not contentious.

Ground for Certificate:

A Certificate of Lawfulness for an Existing Use or Development (CLEUD) is sought on the grounds that the construction/ installation of the drainage works constituted a lawful implementation of the permission under S56(4)(c) of the Town and Country Planning Act 1990 (as amended).

Section 56 (time when development begun) states:

(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.

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

(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).

The aforementioned drainage works were undertaken in June 2013. As noted in the judgement of *Spackman v SoS and Thamesdown BC* [1977], it was held that the laying of drainage pipes was capable of being a material operation even though the

Foundation notices did not exist. This is consistent with the letter from Mr Bowen dated 19th June 2012.

As this is an application submitted under Section 191 of the Town and Country Planning Act 1990 (as amended), the application falls to be determined only on the basis of evidence and law (fact and degree).

Government advice on the matter is that the burden of proof is firmly with the applicant, the relevant test being the 'balance of probability'.

However, importantly, Local Planning Authorities are advised that if they have no evidence of their own that contradicts or undermines the applicant's version of events, then there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the granting of a certificate.

Evidence submitted in support of the application:

- Copy of Initial Notice sent from Total Building Control to Neath and Port Talbot County Council indicating that the drainage works are proposed to connect to the foul sewer in the road dated 04/06/2013
- Letter from Total Building Control dated 01/07/2013 to Robert Bowen of Neath and Port Talbot County Council to confirm that the works outlined in the Initial Notice had commenced on site
- Confirmation letter from Total Building Control dated 23/09/2019 to Mr V Steadman (myself) confirming that a surveyor (Huw Williams) attended the site to inspect the drainage works as verified in the letter above
- Letter from Mr Robert Bowen to Mr Steadman (myself) advising that the installation of the drainage system would constitute a material commencement of development. It should be noted that there is no caveat on this letter and was received in good faith that the works undertaken would be sufficient to constitute the lawful implementation of the permission.

It is not considered necessary to provide copies of the relevant planning permission or letters discharging the relevant conditions as these are a matter of public record and the Council already has copies of the relevant documentation.

Conclusion

The relevant test is the 'balance of probability' and it is considered that the above information is suitably precise and unambiguous to confirm that the commencement of development took place prior to the 1st July 2013 when the planning permission was still live. It can therefore be concluded that the permission therefore remains extant.

EMAIL FROM TOTAL BUILDING CONTROL
Rhodri Griffiths TO NPT BUILDING CONTROL - INITIAL NOTICE

From: Claire Brown
Sent: 04 June 2013 11:45
To: 'Building Control'
Subject: Initial notice for Plot at 137 Swansea Road, Trebanos, Swansea, SA8 4BS - BR13/180
Attachments: INITIAL NOTICE_BR13_180 pdf.pdf; SITE PLAN.pdf; APPROVAL NOTICE.pdf; Insurance Document - up to 2014.pdf

Importance: High

Dear Sirs,

Please find attached a copy of our Initial Notice dated 04.06.13 along with our Insurance and Approval Documentation for the works at the above

Please can you acknowledge receipt.

Yours faithfully,

Claire Brown



Unit 8 | Langdon House | Langdon Road
SA1 Waterside | Swansea | SA1 8QY

Tel: 01792 457014
Fax: 01792 645418

**Section 47 of the Building Act 1984 ("The Act")
The Building (Approved Inspectors etc.)
Regulations 2010 ("the 2010 Regulations")**

INITIAL NOTICE

To: **Building Control Department**
Neath & Port Talbot County Borough Council
Building Control Services
The Quays
Brunel Way
Baglan Energy Park
Neath
SA11 2GG



Corporate Approved Inspectors

Unit 8, Langdon House,
Langdon Road, SA1 Waterside,
Swansea SA1 8QY

T 01792 457014
F 01792 645418
inspector@totalbuildingcontrol.co.uk
www.totalbuildingcontrol.co.uk

1. This Notice relates to the following works:
Proposed demolition of existing shop and construction of a three bedroom detached dwelling at Plot at 137 Swansea Road, Trebanos, Swansea, SA8 4BS.

2. The Approved Inspector in relation to the work is:

Total Building Control Ltd
Corporate Approved Inspectors
Unit 8 (First Floor), Langdon House,
Langdon Road, SA1 Waterside,
Swansea, SA1 8QY

Ref: BR13/180

3. The person intending to carry out the work is: Mr V Steadman, 23 Blue Anchor Road, Penclawdd, Swansea, SA4 3JQ

4. With this notice are the following documents, which are those relevant to the work described in this Notice:

- (a) in case of a notice given by an inspector approved following an application under regulation 4(1) of the 2010 Regulations, a copy of the notice of approval;
- (b) a declaration signed by the insurer that a named scheme of insurance approved by the Secretary of State applies in relation to the work described in the notice;
- (c) in the case of the erection or extension of a building, a plan to a scale of not less than 1:1250 showing the boundaries and location of the site and (where the work includes the construction of a new drain or private sewer) a statement:-
- i. as to the approximate location of any proposed connection to be made to a sewer, or



Total Building Control Limited are Corporate Approved Inspectors providing a building control service to the construction industry.
Registered Address: Unit 8, Langdon House,
Langdon Road, SA1 Waterside, Swansea, SA1 8QY
Company No. 5034670



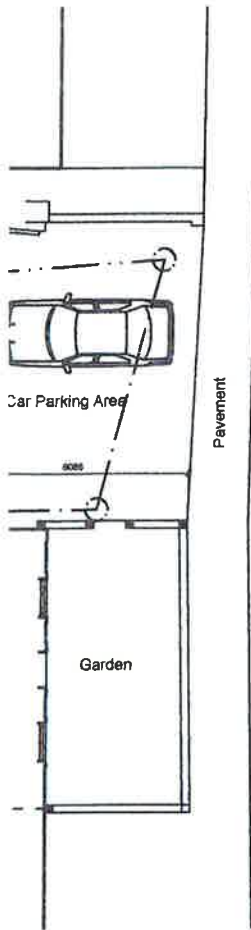
- ii. if no connection is to be made to a sewer, as to the proposals for the discharge of the proposed drain or private sewer including the location of any septic tank and associated secondary treatment system, or any wastewater treatment system or any cesspool; **To connect to foul sewer in road**
- (d) a statement of any local enactment relevant to the work, and of the steps to be taken to comply with it.
5. The work is not minor work.
6. Total Building Control Ltd declare that they do not, and will not while this Notice is in force, have any financial or professional interest in the work described.
7. Total Building Control will not be obliged to consult the fire and rescue authority by Regulation 12 of the 2010 Regulations.
8. Total Building Control Ltd undertake to consult the fire and rescue authority before giving a Plans Certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above. N/A
9. Total Building Control will be obliged to consult the sewerage undertaker by regulation 13 of the 2010 Regulations.
10. Total Building Control Ltd undertake to consult the sewerage undertaker before giving a plans certificate in accordance with section 50 of the Act or a final certificate in accordance with section 51 of the Act in respect of any of the work described above.
11. Total Building Control Ltd are aware of the obligations laid upon them by Part 2 of the Act and by regulation 8 of the 2010 Regulations.

Signed
Total Building Control Ltd
Corporate Approved Inspectors

Signed
P.P. Mr V Steadman
On Behalf of the persons
intending to carry out the
work

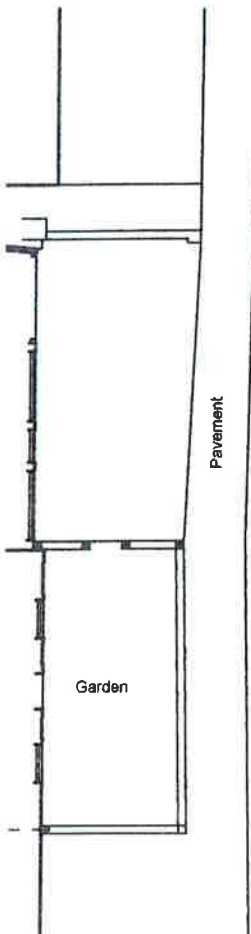
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Dated 04/06/13



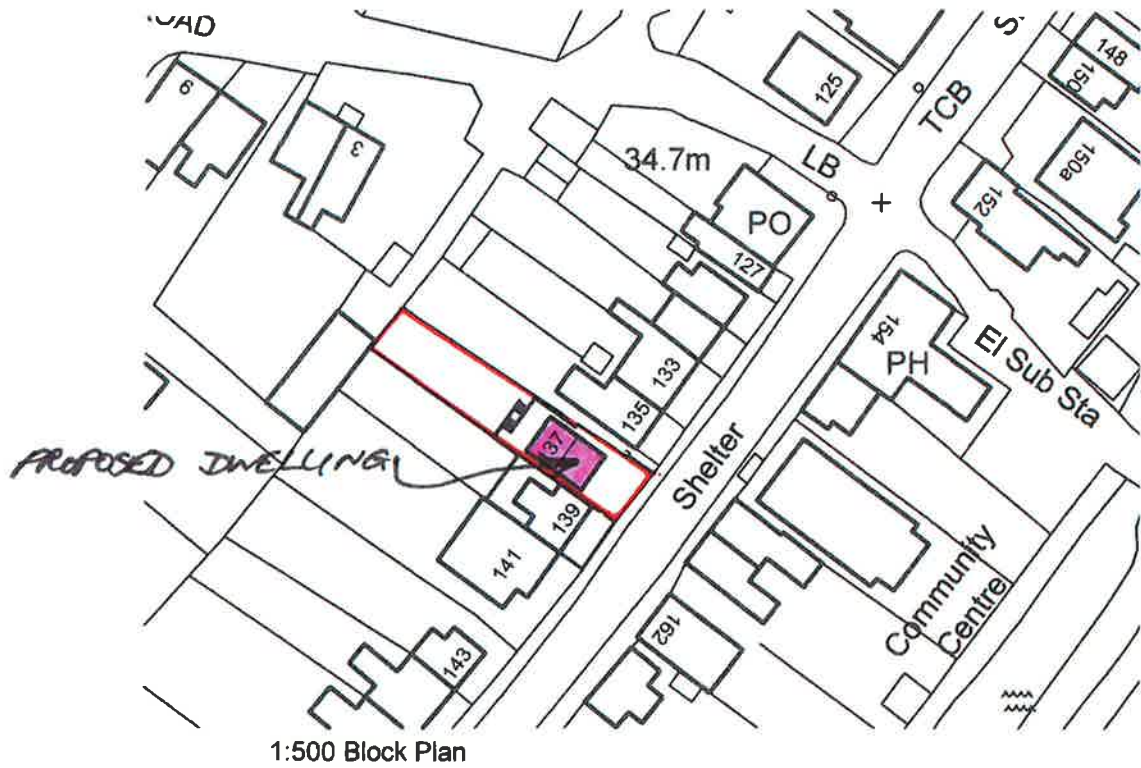
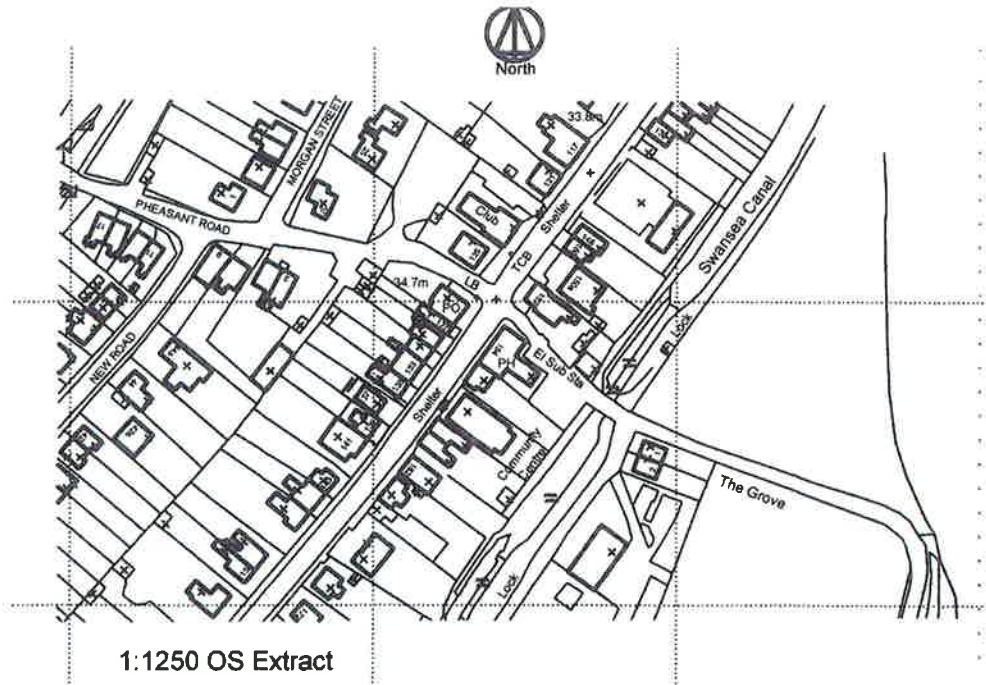
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Swansea Road

Swansea Road



	CLIENT > Mr E.P. Jones, 23, Blue Anchor Rd, Penclawdd, Swansea SA4 3JQ	JOB TITLE > Demolition of existing shop premises & Construction of New Dwelling at No. 137, Swansea Rd, Trebanos, Pontardawe, Swansea. SA8 4BS	DWG TITLE > OS Extract, Block Plan & Site Plan As Proposed
Simply Designed	SCALE > As Noted	DATE > August 2008	DWG No > C01
			REV > A1



Construction Industry Council

**Building Act 1984
The Building (Approved Inspectors etc.)
Regulations 2000 (as amended)**

**The Construction Industry Council hereby gives notice
that, in accordance with section 49(1) of the above
Act and regulation 3(1) of the above Regulations, it has
approved**

Total Building Control Ltd

**as an approved inspector for the purposes of Part II of the
above Act.**

This approval takes effect on the

14 April 2009

and, by virtue of regulation 6(1) of the above Regulations, it will
continue in force for five years from the date of this notice unless it is
withdrawn by virtue of any of the other provisions of regulation 6.

This approval is for all types of building work including all classes of dwelling,
as set out in Annex B of the ODPM circular letter dated 31 October 2005.

Chief Executive

Registrar

The Secretary of State has, with effect from 8 July 1996 and 1 March 1999, designated the Construction Industry Council, with its consent, under section 49 of the Building Act 1984 and regulation 4 of the Building (Approved Inspectors etc.) Regulations 1985, for the purpose of approving individuals and bodies corporate as inspectors for the purposes of Part II of that Act.

SERIAL NUMBER: 23

**"Insurers' Declaration for the Purposes of the
Building (Approved Inspectors etc) Regulations 2010"**

Name of Approved Inspector: **Total Building Control Limited**

Registration Number: **23**

Address: **Unit 8
Langdon House
Langdon Road
SA1 Waterside
Swansea
SA1 8QY**

Policy No's: **Professional Indemnity Insurance - 12/1/00133
and
Public Liability Insurance - PL/0003401**

Insurance Period: **13 March 2013 to 12 March 2014**

We certify that the above is insured under a scheme ("The Griffiths & Armour Scheme") approved in respect of supervision of building work.

The scheme provides cover to the Approved Inspector, who has been approved by the Construction Industry Council as an approved inspector to act for all purposes, subject to the limitations set out in the Construction Industry Council approval.

The scheme is subject to insuring agreements, exclusions, conditions and declarations contained therein. The above is accurate at the date of signature. No obligation is imposed herein on the signatory to advise of any alterations.

Signed:

Dated: 08 March 2013

**James M Patterson
Account Underwriter, Professional Risks (Liverpool)**

For and on behalf of:

**Aviva Insurance Limited
Registered in Scotland No 2116
Registered Office: Pitheavlis Perth PH2 0NH
An AVIVA Company
Authorised and Regulated by the Financial Services Authority**

LETTER FROM TOTAL
BUILDING CONTROL TO PLANNING
CONFIRMING WORKS COMMENCED

My Ref: BR13/180/HW/AL

Dated: 1st July 2013

Robert Bowen, North Team Leader
Neath Port Talbot County Borough Council
Planning Division
The Quays
Brunel Way
Baglan Energy Park
Neath
SA11 2GG

Dear Sir,

Re: Proposed construction of a three bedroom detached dwelling at Plot at 137 Swansea Road, Trebanos, Swansea, SA8 4BS.

I write in connection with the above mentioned development and confirm that the foul drainage works have commenced on site.

Our client Mr V Steadman has requested that we advise you of the above works accordingly.

Yours faithfully,

Huw Williams
Building Control Surveyor
Total Building Control Ltd.

C.C. Mr V Steadman



TOTAL
BUILDING CONTROL

Corporate Approved Inspectors

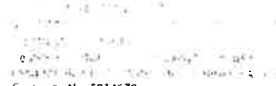
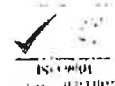
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2019 LETTER TO MR V L STEADMAN
FROM TOTAL BUILDING CONTROL

My Ref: BR13/180/AO/LR

Dated: 23.09.19

Mr V L Steadman
Westville
The Promenade
Penclawdd
Swansea
SA4 3RJ

Dear Sir,

RE: 137 Swansea Road, Trebanos, Swansea, SA8 4BS.

I am able to confirm that Huw Williams, working as a Building Control Surveyor for Total Building Control Ltd., attended site to inspect drainage works, as verified in his letter to NPTC Building Control department.

It is our understanding that the purpose of the letter sent by us to NPTC was to substantiate the claim that works had commenced and constitute commencement with regards to your planning consent.

I hope the above is of assistance to you in the proposed sale of the plot.

Please advise any successful purchaser that we would require them to contact us if they wish to proceed with ourselves carrying out the Building Control function.

Yours faithfully,

Andrew Ofomah
Building Control Surveyor
Total Building Control Ltd.



Corporate Approved Inspectors

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Swansea SA1 8QY

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NPT LETTER RE -DISCHARGE
OF CONDITIONS
Castell-nedd Port Talbot
Cyngor Bwrdeistref Sirol
Gwahaniaeth er gwell

19 June 2012

01639 686738

r.p.bowen1@npt.gov.uk

Date Dyddiad
Direct Line Rhif Ffôn
email ebost

Mr R P Bowen

Contact Cyswllt
Your Ref Eich Cyf
Our Ref Ein Cvf

Q2012/0689/RB/DW

Mr V L Steadman
23 Blue Anchor Road
Penclawdd
SWANSEA
SA4 3JQ

AND
DRAINAGE
WORKS
CONSTITUTING
COMMENCEMENT

Dear Mr Steadman

P2008/0277 – 137 Swansea Road, Trebanos, Pontardawe, Swansea

I write with reference to your letter dated 2 June 2012. I can confirm that you may implement the consent before it expires in 2013. However, you will need to discharge condition 2, 4 and 5. Should you install the drainage system, after discharging the condition then this will constitute a commencement.

I enclose a copy of the planning consent for your information.

Yours sincerely

Robert Bowen
Team Leader North

Enc

Environment
Yr Amgylchedd

Geoff White
Head of Planning
The Quays, Brunel Way, Baglan Energy Park,
Neath SA11 2GG

Geoff White
Pennaeth Cynllunio
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan
Castell-nedd, SA11 2GG



