



For the attention of:
Martin Hammond, Clerk of
Kettering Town Council

Date: 27th November 2023
Our Ref: JS/RG
Email: Jason.smithers@northnorthants.gov.uk

Dear Martin

Jobs Yard Development

I thought it would be helpful, as the local member for Kettering, to provide a more detailed update on the Jobs Yard development, following the court outcomes from last week. I have laid this out under various headings which I hope you find helpful.

Background to the case

As a reminder, the developer has built a six-storey block of flats on the site, which only has planning permission for a four-storey block of flats. This is coupled with added issues relating to building regulations, compliance and improper materials used.

As you may be aware from earlier updates in 2022 and 2023, an expert structural engineer was appointed by North Northamptonshire Council (NNC) to carry out an in-depth analysis of the as-built structure, which confirmed that the superstructure and foundations are severely overloaded and therefore the building is at risk of collapse.

As a result, in June 2022 following the recommendations of the expert structural engineer, Building Control implemented a cordon around the site to protect public safety. Disappointingly, the developer, Michigan Construction Limited (MCL) have continued to progress the construction, despite informal enforcement measures by Building Control, stop notices by Planning and two prohibition notices served on the developer by the Health and Safety Executive, prohibiting work to the building and scaffolding.

The developer has repeatedly ignored the various authorities at every stage of the build and therefore NNC sought legal advice to enforce compliance with the building regulations and planning consent.

External legal counsel was appointed and an application for an injunction lodged with the Technology and Construction Court (High Court) in Birmingham. The trial date was scheduled to commence on 30th May 2023 for four days but was adjourned on the second day to a date later in the year. It was ordered by consent of all parties that the top two floors of the building would be demolished by a specialist contractor at the developers cost and sample testing of blocks used in the lower walls of the building was arranged to prove whether the blocks used were fit-for-purpose.



The developer failed to comply with the order of May 2023 and continued to progress works to the top floors of the building that were supposed to be demolished, including installing the roof structure and covering, and fitting all windows in the building. NNC re-applied to court for an early re-listing.

The adjourned trial for the Jobs Yard case was re-listed for early trial by the court and scheduled for three days beginning 15th November 2023.

Outcome Summary from the trial

The trial lasted three days and concluded with an oral judgement from Her Honour Judge Sarah Watson, which upheld the position of NNC and granted an order compelling the developer, MCL, to demolish the building down to the ground by 28th February 2024 at their own cost.

The order requires the developer to do the following:

- Appoint a specialist contractor approved by NNC, and for them to propose a methodology for demolition which is approved by NNC and Health and Safety Executive (HSE).
- Cooperate with NNC and HSE to assist in the timely demolition of the building and pay the demolition costs.
- To not carry out any further works in breach of the planning permission granted on appeal dated 26 January 2021.
- Pay NNC's costs, subject to a detailed assessment if not agreed.

Right of Appeal

In the order, the judge did not grant MCL the right to appeal and therefore if MCL were to appeal the court's decision, they would initially have to apply for and obtain permission to do so before then lodging an appeal with the Court of Appeals.

MCL have 21 days from the date of the order (20th November) to submit an appeal and the judgement remains effective in the event that an appeal is lodged, i.e., the decision is not paused or stayed whilst any appeal is heard.

Next Steps for NNC

NNC Building Control will seek to proactively to ensure the developer does not stall the demolition. If the developer fails to cooperate or causes undue delay, we will consider remitting the matter back to court at the earliest opportunity.

Building Control will continue to monitor the site cordon to ensure it remains in place to protect public safety.

Finally, as I have publicly stated, NNC will not tolerate instances such as this and that we will take tough action against developers who choose to flout the rules, which are



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so necessary to ensure that high standards of construction are maintained, and new buildings are in keeping with surrounding areas.

Yours sincerely

Councillor Jason Smithers
Leader of North Northamptonshire Council