

CERTIFICATE OF EXISTING LAWFUL DEVELOPMENT REPORT**REF NO:** EG/83/08/CLE**LOCATION:** Poling Motor Company
Fordingbridge Industrial Park
Barnham Road Barnham**PROPOSAL:** Application for certificate of lawfulness for an existing industrial building used for storage of motor vehicles, parts and equipment**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	Industrial building for storage of motor vehicles, parts and equipment.
SITE AREA	Approximately 1.8 hectares.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Front boundary has grass mound then close boarded fencing approximately 2.5m in height, east side boundary has earth bund with tree screening over 3m in height, west side boundary has earth bund approximately 4m in height, rear boundary has earth bund with tree screening over 3m in height.
SITE CHARACTERISTICS	Mixture of buildings located within the site mainly single storey in height comprising body repairs, panel and spray booths, wash bay, stores for vehicle spares/materials, wc facilities.
CHARACTER OF LOCALITY	Semi-rural area with open fields to rear and west side. Main road with detached residential properties of various styles and designs. Detached properties to east of site in Downview Road.

RELEVANT SITE HISTORY

EG/11/00/	Retention of cladding to polytunnels and continue use of the buildings for the storage & dismantling of vehicles & storage of plant and equipment.	Refused 24-03-2000 Appeal: Dismissed 18-JAN-2001
EG/11/94	Parking of staff/visitors cars on hardstanding area	Refused 15-06-1994

EG/15/95	Parking of staff/visitors cars on hardstanding area.	Refused 07-06-1995 Appeal: Dismissed 14-DEC-1995
EG/19/93	Rebuilding of former industrial building damaged beyond repair by severe winds (part retrospective)	Approve Cond 12-01-1994
EG/20/96	Siting of additional Portacabin adjacent to existing Portacabins (cabin already on site)- this cabin to be turned through 90 degrees to bring it within appeal boundary.	Approve Cond 12-06-1996
EG/21/92	Formation of earth bund and ditch	Approve Cond 17-06-1992
EG/23/96	Change of use to include car and van rental business in conjunction with existing motor repair business	Approve Cond 10-07-1996
EG/32/92	Change of use for storage and repair of motor vehicles	Withdrawn 27-08-1992
EG/38/92	Formation of earth bund and ditch	Approve Cond 09-02-1994
EG/20/68	Use of premises for light industrial purposes	Approve 29-05-1968
EG/36/68	Use of premises for light industrial purposes	Approve 29-07-1968
EG/2/69	Rebuilding of storage shed No 2	Approve 19-02-1969
EG/16/71	Change of use of buildings engineering factory	Approve 19-05-1971

REPRESENTATIONS

Representations received:

Eastergate Parish Council

Awaited.

1 Letter of Objection

The building is an encroachment on the strategic gap.

The building is visible from our lounge and bedrooms for about 6 months of the year.

If the building is approved, a condition for additional screening should be imposed.

The colour of the building should be toned down.

Any lights on the building should be shaded from view.

Comments on Representations received:

Noted. The Certificate of Lawfulness is assessed on the submitted evidence in relation to the period of time the industrial building has been on the site.

CONSULTATIONS

Planning Solicitor- Delwyn Jones

Consultations responses received:

Planning Solicitor

GENERAL RECOMMENDATION

I recommend on balance that you grant for reasons that follow subject to you finding any contradictory evidence. I append some caveats and further checks below to make the CLEUD more precise if on balance of probabilities you issue it. I rely on you to tell me of any evidence indicating otherwise.

DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND CIRCULAR 10/97 ANNEX 8

(1) Time: SS171 (1)-(3) and S191 TCPA 1990

The application is for operations so the time limit is 4 years under the above.

This time period is ie 19 December 2004-19 December 2008 ie 4 years to date of the application.

The evidence satisfies this test. I refer to all papers in the application dated July 2003 and December 2003 which I detail below. I have at this date seen no contradictory evidence of this position and I explain why below.

(2) Sufficiency of Evidence: para 8.12-8.22

Subject to what I say below the evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous.

Para 8.15 and the case of Gabbittass v SSE and Newham LBC 1985 JPL 630 referred to there establishes that corroboration is not needed unless to resolve any ambiguity. S194 TCPA 1990 states that it is a criminal offence to supply false or misleading information. So the applicants own uncorroborated evidence and unsworn evidence via letters is sufficient for these purposes.

Erection of building and date circa October 2003

There is a large bundle of papers ie invoices and bank records confirming payments for building materials and labour rendered to the applicant whose name and address appear on them. The dates circa August-October 2003 appear about right and accord with appellants claims.

On balance of probability these relate to the erection of the application building for which the same materials and building labour would have been required. The applicants claims form the vital link between labour materials and building unless there are other reasons for production of these papers which aren't apparent to me.

Use of Building

I suggest you need to describe precisely the uses ie B2 or B8, the hours worked, staff numbers, items stored, dimensions, etc all of which I have listed below in the draft terms of a CLEUD below.

I suggest that you ascertain these from the site visit and/or direct enquiry of the applicant. If you get no satisfactory reply then you could refuse because of inadequate information to

issue the certificate.

Further Checks

I suggest you make further enquiry of NNDR, Environmental Health and Enforcement, aerial photos and microfiche to see whether these help to confirm the above evidence.

Planning History print out on file shows a series of active planning events. You or one of your colleagues may recall a site visit when the building was noted. I suggest this as a further check.

Further Evidence

I rely on you to show me any fresh evidence which may alter the tenor of this advice.

Terms

1. Grant
2. Use Class B2/B8, subject to confirmation
3. Identify precise land boundaries on plan for extant of use
4. Identify building dimensions
5. Identify curtilage dimensions
6. Describe accommodation, ie number of rooms, etc.
7. Limit persons in occupation/at work.

Comments on Consultation responses:

Noted.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The industrial building is sited to the rear of the site behind existing workshop buildings and earth bund and to the rear is open fields and the side boundaries an earth bund.

The application is for operations so the time limit is 4 years. The time period is from 19th December, 2004 - 19th December, 2008, ie 4 years to date of the application. The evidence satisfies this test ie the evidence shows on balance of probability that the industrial building used as a vehicle workshop and storage of vehicles and parts has been on site since March 2004.

The evidence submitted with the application fulfils the sufficiency of evidence test (para 8.12-

8.22) in that, judged on the balance of probability and the above criteria, the evidence is sufficient, precise and unambiguous.

It is therefore recommended that the certificate of existing use application be granted.

RECOMMENDATION

APPROVE

- 1 The Arun District Council hereby certify that on the 10th February, 2009 the use hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged boldly on the plan attached to this certificate was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reasons that the evidence shows when judged on a balance of probabilities that the use of the land and industrial building has been on site in excess of 4 years.
- 2 Use of industrial building as a vehicle workshop, storage of vehicles and parts under Class B2 and B8 of the schedule to the Town and Country Planning (Use Classes) Order 2005:-

Siting of industrial building measuring 45m x 15m and 5.3m in height.

Hours of operation:
Monday to Friday 07.30 to 1730
Saturday 0800 to 1300
Sunday 0900 to 12.00 noon (vehicle drop off only)
- 3 Poling Motor Company, Fordingbridge Industrial Estate, Barnham Road, Eastergate.
- 4 The industrial building, which is shown on the plan attached to this certificate, within the area edged boldly in black.