Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: **F/10/13/CLP**

LOCATION: Former Ford Blockworks (Aerated Block F
Ford Airfield Industrial Estate
Ford

PROPOSAL: Application for Certificate of Lawfulness for a proposed use of former Ford Blockworks aerated Block factory for use Class B2 (General Industrial)

DESCRIPTION OF APPLICATION

The application seeks confirmation that the permitted use of the site falls within Use Class B2. The supporting information submitted with the application refers to the previous use of this building was as an aerated block plant. It was an open plan building which used to contain sand silos, an ash silo, a cement silo, a pfa silo and anhydrite silo. There was previously mould oil and soluble oils storage tank within the building. These oils were used to remove the blocks from the moulds.

DESCRIPTION OF SITE AND SURROUNDINGS

The buildings comprise former Tarmac Topblock buildings which are located within the airfield which is generally flat and open.

RELEVANT SITE HISTORY

None of the planning history points to any use other than production of building blocks.

REPRESENTATIONS

Representations received:

Ford Parish Council - Objection
The Council object as the building has not been used for the past 18 months to 2 years and therefore this application for lawfulness use is not applicable. The Council also commented that the buildings are outdated and query the use of them at all due to the likelihood of asbestos being used for their construction many years ago.
Other
2 letters of objection :
Change of use has not carried on continuously for the last 10 years or more. The site has been out of use since 2010.
Drawing required in scale 1:50 whereas the drawing delivered is 1:100.
The application states that the area cannot be seen from a public footpath. However this statement is in error, the area can be seen from public footpaths.
It is worth noting that classification B2 excludes incinerators as it is understood that an application for an incinerator will shortly be submitted.
I would like to raise concern over the change of traffic that the application could imply. The access to the land in question is immediately adjacent to residential properties. Conditions 2 and 3 from reference F/11/87 limiting traffic and production between certain hours. Any new application for use of this site must similarly be limited to these hours.

Red kites are regularly seen in the field immediately north of the site. Red kites are a protected species and B2 general industrial use has the potential to disrupt these birds.
The site has been identified by WSCC as a waste recovery site. The buildings weren't designed for this. Use should be considered jointly between Arun District and WSCC.

Comments on Representations received:

Comment on Parish Council Comment: The presence of asbestos, state of the premises and recent use are not relevant considerations in relation to this type of application. Determination of this type of application is not based on planning merit.
Comment on other letters of representation:
Continuous use does not need to be demonstrated this is not an application for an established use certificate. The submitted drawings are to scale and are adequate for the purposes of identification. Whether the area can be seen from public footpaths is not relevant to consideration of the application.
Class B2 does exclude incinerators and the provision of an incinerator would require the submission of a planning application and would be considered on its own merits. Traffic generation, impact on wildlife, state of the buildings and hours of operation cannot be considered as part of the application.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

Planning Solicitor
Recommend you GRANT THIS AS A B2 GENERAL INDUSTRIAL USE for reasons that follow subject to your finding any contradictory evidence.
If any complaints are received, that that would be a private or public nuisance, actionable by the residents, parish council and also an Environmental Health Statutory Nuisance, and/or a matter for the Health and Safety Executive or Environment Agency.
It is well known that the CLEUD and CLOPUD determination criteria exclude planning merits and also non planning matters. These matters fall into these categories. The fact that these other controls exist, should enable the Council to satisfy its duties and explain to complainants that they have other remedies.
DETAILS AND TESTS UNDER SS 191 TCPA 1990 AND CIRCULAR 10/97 ANNEX 8
The evidence judged on a balance of probability and the above criteria is sufficient and is precise and unambiguous.
This being an application for Certificate of Lawfulness of Proposed Development the simple question is Does the application relate to future development and does it fit within the relevant parts of GPDO or is it otherwise lawful?
The application site covers 3 buildings on site ie factory , and 2 other large buildings within the factory curtilage as shown on the application plan
The use does not come with the exemptions within UCO 1987 Art 3(6)(a)-(m) exemptions or specific sui generis uses. This means, that on the face of it, the use fits within the general B2 category and is not sui generis.
The process involves manufacturing ---note one building is called a factory which produces a type of concrete or concrete blocks
Judging by the various conditions on the planning permissions in the planning history this is a use that would not be compatible with a residential area and is not B1 , and the comments and fears from the parish council. So if it isn't sui generis or B1 it is likely B2
Reference to the Land Use Gazetteer[LUG]indicates no precise entry for aerated blocks , but there are in the LUG comparable entries and these indicate a B2 use.
The previous planning history indicates a planning permission for each building being granted

with typical B2 type conditions
The conditions indicate a B2 use of manufacturing and require indoor only storage and manufacture and
restricted hours.
The conditions will remain on the site and will control any subsequent B2 uses. This should enable future controls to be maintained on site.
Conclusion
This use for aerated block factory use is B2 in Use Classes Order 1987.
4.FURTHER EVIDENCE
I rely on you to show me any fresh evidence or any questions which may alter the tenor of this advice.
5.SUGGESTED TERMS OF GRANT /REASONS FOR REFUSAL
I suggest [subject to your comprehensive review of the evidence] that the application be granted in terms of a B2 use subject to the planning permissions in the file.

Comments on Consultation responses:

Agreed

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.

In this instance the proposed works will be assessed against the Town and Country Planning Use Classes Order 1987 and Town and Country Planning (Use Classes)(Amendment)(England) Order 2005.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions relating to use of the site have been imposed on the site, the site benefits from B2 General Industrial Use. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSIONS

The uses as an aeration plant/concrete formwork manufacture and concrete product manufacture all fall within Use Class B2.
It has been demonstrated that the use of the premises for blockwork construction falls within the General Industrial Use Class B2 of the Town and Country Planning Use Classes Order 1987 and Town and Country Planning (Use Classes)(Amendment)(England) Order 2005.
It is therefore recommended that a certificate of lawful development is issued.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 11-06-2013 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this

certificate and edged black on the plan attached to this certificate, was lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason: The proposed use of the building for Class B2 purposes accords with the permitted use of the site and as such does not require planning permission

FIRST SCHEDULE
The previous use for this aerated block factory building is B2 in Use Classes Order 1987.

SECOND SCHEDULE
Former Ford Blockworks, Ford Airfield Industrial Estate, Ford Road, Ford, BN18 0HY

EXTENT OF USE
The 'development' involves use for B2 General Industrial purposes.

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