

Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

26 Chapel Street
Chichester
West Sussex
PO19 1DL

GP/19043

8 July 2019

Dear Sirs

Application for a Lawful Development Certificate for an Existing Use at Unit X Rudford Industrial Estate, Ford Road, Ford, West Sussex, BN18 0BF: Use of Building for 24 hour B8 Storage and Distribution.

On behalf of our client Parkers Foodservice Ltd, we enclose an application for a Lawful Development Certificate for an Existing Use as described above.

The evidence supplied with the application comprises:

- Location Plan scale 1:2500
- Block Plan scale 1:1250
- Legal Submissions of Graham Gover Solicitor LARTPI
- Statutory Declaration of Mr. Ian Elliott.

Planning Statement

We have considered the available planning history as detailed below. As a result, it is our opinion that there is a flaw in the planning history for Unit X. This opinion is confirmed by our legal adviser. As such the lawfulness of the site needs to be resolved in order for our client to purchase the site for his business which requires a B8 use without a restriction on operating hours. The legal submissions by Graham Gover included in support of this application cover three alternative scenarios that lead to the lawfulness of the site.

1. Contrary to our opinion, ADC may consider the permission was validly granted in 1990 for a warehouse use, in which case the use is lawful.
2. Alternatively, the use is lawful (if no valid permission was granted) because the council are estopped from enforcing.
3. Alternatively, the use has become lawful by the passage of time.

By way of background, our research shows the following sequence of events that have led to the use of the site for B8 storage and distribution since 1990.

Outline permission ((CM/5/86 – Appendix A)) was given for this part of Rudford Industrial Estate under CM/5/86 on 28th April 1988 for “industrial development”. No use classes were defined in the decision and therefore the outline permission consents all industrial Use Classes. No hours of working conditions were imposed. It is apparent from the Council’s files that the original resolution to grant permission on 7th July 1986 did include the intention to restrict working hours but during the long delay in issuing the decision (due to the need for a legal agreement on highway matters) it became apparent that “consideration must be given to modern day operational requirements and requests are continually made for 24 hour use”. A report (Appendix B) confirms that as a consequence, the Council decided in Feb 1988 that when they were to issue the decision it would be without any restriction on hours.

However, the second stage of the planning approval for Unit X (the reserved matters permission), F/39/89 (Appendix C) specifically describes the use as “warehouses and offices for European Stationers Ltd”. Again no hours restriction is imposed by condition.

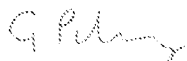
The legal background is therefore flawed but it is clear that the intention of the reserved matters decision was to permit B8 storage and distribution without an hours of use restriction. In good faith the operators of the site have used the Unit for B8 storage and distribution for nearly 30 years, operating at times on a 24 hour basis.

To support this application we enclose legal submissions from Graham Gover Solicitor and statutory declaration the owner Ian Elliott. The witnessed version of the declaration will be forwarded by post in due course.

We trust that the application is complete and look forward to receiving an acknowledgement of receipt at your earliest convenience. To support the continued employment for the proposed incoming occupier of the site for B8 purposes without an hours limitation, we trust you will endeavor to determine this application as soon as possible. We would appreciate the opportunity to provide clarification if it would assist your decision.

Yours faithfully

for Genesis Town Planning Ltd



Gail Pilkington BSc (Hons), Dip TP. MRTPI
Senior Planner