

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: F/15/19/CLE

LOCATION: Unit X Rudford Industrial Estate
Ford Road
Ford
BN18 0BF

PROPOSAL: Application for Certificate of Lawfulness for Existing Use - Storage & distribution with ancillary offices & parking.

DESCRIPTION OF APPLICATION

The application seeks a certificate of lawfulness for the existing use of a building to be used for storage & distribution with ancillary offices & parking.

SITE AND SURROUNDINGS

The site is occupied by a two storey building set within Rudford Industrial Estate. There is parking to the front of the building for approximately 30 cars.

RELEVANT SITE HISTORY

F/17/92	Proposed first floor offices	ApproveConditionally 14-05-92
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Relevant planning history noted.

REPRESENTATIONS

Representations Received:

Ford Parish Council

Parish Council provided no objection if conditions are included for delivery provisions. They should be the same as the hours imposed at Viridor and Grundon sites.

No representation received from nearby occupiers.

Comments on Representations Received:

Comments noted. However, this application is restricted solely to test the legal merits of what is being applied for i.e whether the unit in question has been used as storage and distribution with ancillary offices and parking for more than 10 years. This means that planning merits such as controlling delivery provisions is not permissible.

CONSULTATIONS

Environmental Health

Economic Regeneration

Consultations Responses Received:

Economic Development - Premises of this size and type required, without a huge number of restrictions are rare in the district and business are potentially, being hampered in their growth. For this reason we support the application.

ADC Legal Response - The evidence submitted is sufficient to establish that in all probability a storage and distribution business use of the premises did commence from 1990 and has continued. Therefore, the warehouse and office use is the lawful use and the certificate should be granted.

Comments on Consultation Responses:

Comments noted.

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.

Section 191 to 195 Town & Country Planning Act 1990 and NPPG guidance on LDC's have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy.

- (i) What is judged on a balance of probability;
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence; and
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Section S171(1)-(3) and S191 TCPA 1990. The relevant time period is July 2009 to July 2019 i.e. 10 years to the date of the application.

CONCLUSION

From the evidence submitted and the advice from the Planning Solicitor, the LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable. There is therefore no good reason to refuse the application.

RECOMMENDATION

APPROVE

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 in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the unit has been used as storage and distribution with ancillary offices and parking for a continuous period of 10 years.

FIRST SCHEDULE

Use of the site as storage & distribution (Use Class B8) with ancillary offices & parking as indicated on the plan.

- Location Plan

SECOND SCHEDULE

Unit X Rudford Industrial Estate, Ford Road, Ford, West Sussex, BN18 0BF.

EXTENT OF USE

Use of the site as storage & distribution (Use Class B8) with ancillary offices & parking.

F/15/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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