

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/8/19/CLE

LOCATION: Unit A
Rudford Industrial Estate
Ford Road
Ford
BN18 0BD

PROPOSAL: Lawful development certificate for the existing use as B2 (General industry) and/or B8 (Storage or distribution).

DESCRIPTION OF APPLICATION

Lawful Development Certificate for the existing use of Unit A, Rudford Industrial Estate for B2 and B8 use. The B8 use of the site is ancillary to the B2 use of the site for the production of expanded polystyrene products.

SITE AND SURROUNDINGS

A large extended industrial shed, outbuildings & tanks, external hardstanding used for storage, delivery truck parking and manouvering and employee parking. The site is located within a long established industrial estate on the former Ford airfield.

RELEVANT SITE HISTORY

F/20/14/NMA	Application for a non-material amendment following a grant of planning permission F/7/14/PL - the addition of a roof mounted extract fan to each roof extension	Approve 22-10-14
F/7/14/PL	Roof extensions to allow installation of new machinery	ApproveConditionally 12-06-14
CIC/F/12/99/	Working hours	
CIC/F/11/99/	Working Hours	

F/17/96	Extension to existing factory to provide additional storage area	ApproveConditionally 11-09-96
F/13/96	Extension to existing factory to provide additional storage area	ApproveConditionally 11-06-96
CIC/F/13/95	Night time operations disturbing residents nearby	
F/6/88	Approval of reserved matters following the grant of an outline application permission CM/5/86 for Phase 3 - proposed manufacturing complex, further warehousing and first floor offices.	ApproveConditionally 18-05-88

The industrial estate was originally granted outline planning permission for industrial use in 1986 with a subsequent reserved matters application in 1986 (F/6/88) for a proposed manufacturing complex, further warehousing and first floor offices.

There have been further planning permissions for extensions to the existing factory to provide additional storage space and additional machinery on the site in 1996 and 2014.

No limit to working hours has been conditioned on any of the previous planning permissions.

REPRESENTATIONS

Representations Received:

Ford Parish Council

Ford Parish Council support the application.

A neighbour objection was received complaining that there is no time restriction to the use of plant or machinery as per other businesses on Rudford Industrial Estate.

Comments on Representations Received:

Noted. There have been no conditions applied to working hours in any previous planning permissions. No complaints have been received in the last 10 years regarding the operating hours of the business. Noise nuisance legislation under the Environmental Health regulations would nevertheless still apply to the activities on site.

CONSULTATIONS

Consultations Responses Received:

ADC Legal Advice -

Lawfulness - Check whether any Enforcement Notices are in force prohibiting the use.

Issues - No evidence provided that the use has been continuous for 10 years proceeding the application.

B2 or B1 use?

Mixed use claim. How much B2 and how much B8?

Comments on Consultation Responses:

Lawfulness

The planning history of the site demonstrates that no Enforcement Notices have been issued relating to the use of the site.

Use by the applicant's for more than 10 years

The planning history of the site demonstrates that site has planning permission for B2 industrial use and has been used by the applicant in excess of 10 years

The agent has provided a deed of covenant and property register which show reinforce the planning history evidence, demonstrating that the use has been ongoing for well in excess of 10 years.

The production of expanded foam products for the construction industry i.e. foam insulation boards) and for the packaging industry as detailed on the companies websites are akin to plastic moulding and are B2 uses and the planning history states that the site has planning permission for industrial use.

The B8 storage and distribution use of the site is ancillary to the primary use of the site providing storage and distribution areas for the products made on site. The change of use of the site from B2 to B8 Storage and distribution would be permitted development under Part 3 Class 1 of the Town and Country Planning General Permitted Development Order 2015 as amended. It is therefore accepted that the mixed use of site would not require further planning permission.

It is accepted from the evidence provided by the agent that Jablite and Styropack are sister companies for the purposes of this application.

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 Act 1990 (as amended) c. 8 Part VII Introductory Section 171B:-

Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to

use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

CONCLUSION

The evidence provided and the planning history of the site is sufficient to demonstrate that the use for B2 industrial use with ancillary B8 storage and distribution use has been subsisting for more than 10 years and thus is immune from enforcement action in line with the Town and Country Planning Act 1990 (as amended) c. 8 Part VII Introductory Section 171B (3).

RECOMMENDATION

PP NOT REQUIRED

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 property had been in use for B2 industrial use with ancillary B8 storage and distribution use.

FIRST SCHEDULE

Lawful Development Certificate for the existing use of Unit A, Rudford Industrial Estate for B2 and B8 use. The B8 use of the site is ancillary to the B2 use of the site for the production of expanded foam products.

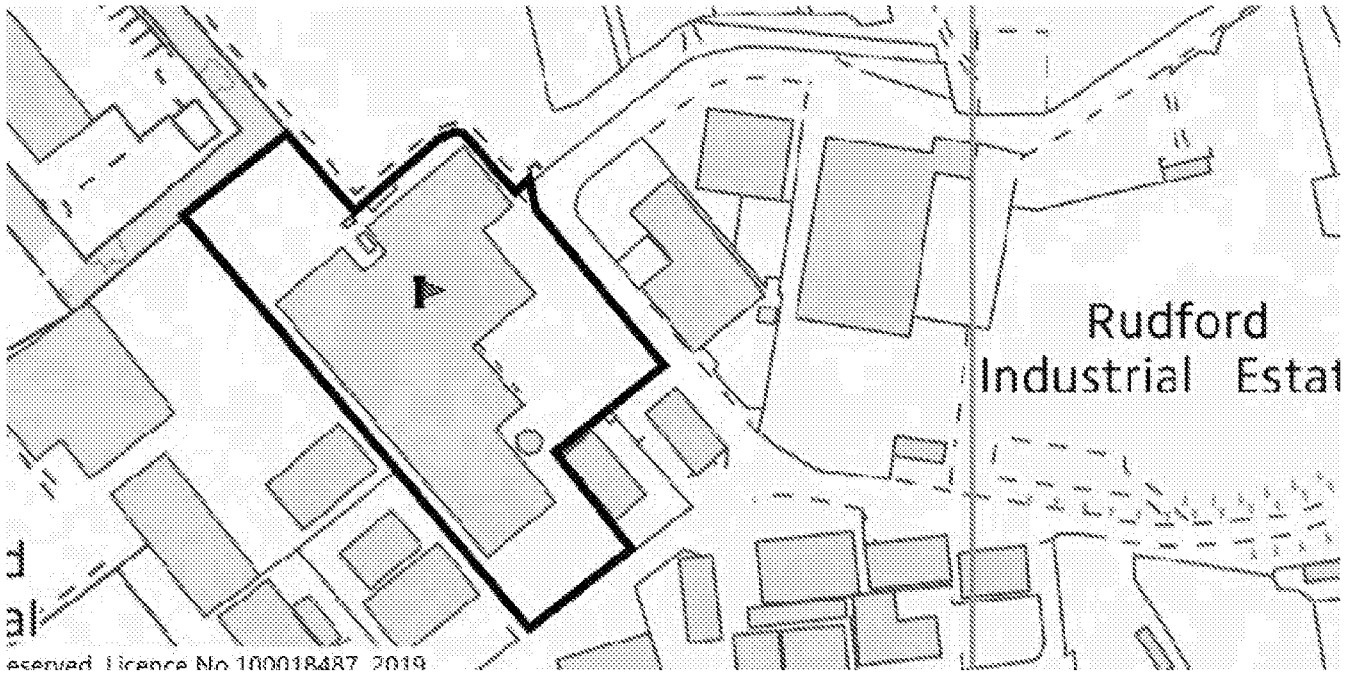
SECOND SCHEDULE

Unit A, Rudford Industrial Estate , Ford Road, Ford, BN18 0BD.

EXTENT OF USE

Use of the premises for B2 industrial use with ancillary B8 storage and distribution use.

F/8/19/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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