

APPLICATION NUMBER: 25/01032/CPE

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.
25/01032/CPE

CASE OFFICER
Aimee Bovaird

DETERMINATION DATE 22.12.2025 EXT OF TIME

Address: GXO Former Tesco Stores Ltd Stakehill Industrial Estate Touchet Hall
Road Middleton

Proposal: Certificate of lawfulness for existing use as warehouse and storage use

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N

RECOMMENDATION	GRANT UNCONDITIONALLY
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CHECKED AND SIGNED OFF BY: RK

DATE: 09/12/2025

SITE

The application relates to GXO Former Tesco Stores Ltd Stakehill Industrial Estate
Touchet Hall Road Middleton

PROPOSAL

Certificate of lawfulness for existing use as warehouse and storage use.

RELEVANT PLANNING POLICY

The Town and Country Planning Act (1990)

S.55 - Meaning of “development” and “new development”
S. 171 – Time Limits

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (“the UCO Amendment Regulations”)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

RELEVANT SITE HISTORY

N/A

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

In accordance with the Council’s Code of Publicity for Planning Applications, no publicity was undertaken for this application. No comments have been received by the council.

ANALYSIS

The Town and Country Planning Act 1990, Section 171B ‘Time limits’ states the following:

(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—

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and

(b) in the case of a breach of planning control in Wales, 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—

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.

(2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).

(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.

The proposal seeks permission for a certificate of lawfulness confirming the lawfulness of the existing use of the building as a warehouse and storage use.

In respect of enforcement time limits, S171B (3) of the 1990 Act states that no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

Paragraph 006 of Planning Practice Guidance (Lawful Development Certificates) places the onus of proof on the applicant, however, goes on to state, that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application.

The applicant has provided a decision notice dated 26th June 1987 with a reference D20663. This decision notice grants outline planning permission had been granted for industrial/ warehousing development located on land between Boarshaw Lane/ Touchet Hall Road, Stakehill Industrial Park Middleton.

Prior to occupation by GXO Greene King, the site was occupied by Tesco as a regional distribution centre for a period of at least 15 years, thus B8 would comprise the lawful use of the building irrespective of any planning permission. This is confirmed by publicly available Street View records.

In light of this information, it would be reasonable to assume that on the balance of probabilities the use as a warehouse and storage use has continued for a period of 10 years, and the LPA is not in possession of any evidence which would otherwise contradict the evidence supplied by the applicant. It is therefore considered the existing use of the building as a garage for storage and distribution be considered lawful where the length of time exceeds 10 years, as set out under Section 171B (3) of the Town and Country Planning Act.

RECOMMENDATION

GRANT UNCONDITIONALLY

Reason

The use of the building as for storage and distribution (Use Class B8) is considered lawful by virtue of the provisions of Section 171B of the Town and Country Planning Act 1990, on the grounds the building has been used for such purposes for a continuous period in excess of 10 years.

Notes for Applicant:

The application related to the following plans:

- Location Plan 05_911 Rev P01

Report Author Aimee Bovaird