

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00708/CPL

CASE OFFICER

Ryan Killeen

DETERMINATION DATE 12.09.2024 **EXT OF TIME**

Address: Kingsway Plot K(B) James Watt Drive Kingsway Business Park
Rochdale OL16 4UG

Proposal: Application for certificate of lawfulness for the proposed internal extension of offices at ground and first floor and erection of surface mounted lightweight structure for extension of first floor mezzanine.

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/A	Contrary to national policy?	N/A
	Applicant a Council Member or officer?	N/A	Contrary to previous decision?	N/A
	Major with 10 or more objections and recommending approval?	N/A	Called in or Planning Panel objection?	N/A

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

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

RECOMMENDATION**GRANT UNCONDITIONALLY****CHECKED AND SIGNED OFF BY:** RG**DATE:** 27 September 2024

SITE

The application relates to Unit B of Plot K within Kingsway Business Park, an established business park set to the north of the M62 and south of Rochdale. The unit broadly set centrally within the park adjacent to Sir Isaac Newton Way. Vehicular access to the site is taken from John Milne Avenue to the north.

The application unit covers an area of approximately 3,700sqm with the total plot area c.0.75ha. Parking is provided to the west of the unit, with a forecourt positioned off the southern elevation.

PROPOSAL

The application seeks a certificate of lawfulness for the installation of an internal mezzanine and reconfiguration of internal layout to provide additional office space.

RELEVANT PLANNING LEGISLATION

Town and Country Planning Act –

Section 55 – Meaning of “*Development*”

Section 192

(1) If any person wishes to ascertain whether—

- (a) any proposed use of buildings or other land; or
- (b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) 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.

RELEVANT SITE HISTORY

14/00542/OUT	Outline application, with all matters reserved, for a mixed use business park comprising buildings within development plots as shown on the site location plan for General and Light Industrial Uses (Classes B1 and B2), Offices in the Use Class B1, Distribution and Storage Uses (Class B8), Research and Development Uses in Use Class B1, Car Showrooms (Sui Generis Use), Hotels in Use Class C1, Ancillary Retail and Leisure in Use Classes A1 - A5 and D2, and Residential in Use Class C3. Approved August 2014.
15/01027/REM	Application for approval of reserved matters pursuant to outline permission 14/00542/OUT (relating to means of access, appearance, landscaping, layout and scale) for the erection of 4 industrial/warehouse buildings with associated external works to include new access road, service yards, car

parking, retaining walls, landscaping and the diversion of an existing public right of way. – Approved November 2015

CONSULTATION RESPONSES

N/A

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, the application was not publicised. Given the application relates to one made under S.192 of the 1990 Act, in granting a certificate the Council is of the view that the amendments would be lawful and therefore would not require planning permission for the reasoning set out in this report.

ANALYSIS

Section 55 of the Town and Country Planning Act 1990 sets out the meaning of development as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

S.55 (2) sets out that the carrying out of alterations which only affect the interior of the building is not to be taken as comprising an act of development.

Section 49 of the Planning and Compulsory Purchase Act 2004 provided An amendment to the definition in S.55 of the 1990 Act to include operations which have the effect of increasing the gross floor space of the building. Section 44 of the Development Management Procedure Order (2015) provided an updated to the cancelled DCLG Circular 01/2006 to define such circumstances as increasing the floor space of the building by more than 200 square metres within buildings which are used for the retail sale of goods other than hot food.

The current occupier of the building is a textiles manufacturer and distributor, with no public facing retail element available. Planning Permission 14/00542/OUT refreshed the outline planning permission for the site which primarily includes the delivery of a significant amount of general and light industrial, and distribution uses (use classes B1,B2 and B8 prior to 2020), with 15/01027/REM granting reserved matters consent for the development of 4no. industrial/warehousing units (former use classes B1, B2 and B8).

The effect of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 is that all parts of use class B1 has moved into Use Class E, which is shared with retail uses.

Notwithstanding, the use which has been lawfully implemented is that of a B2 use which has remained in the same, separate use class. As such, the proposed internal alterations and mezzanine would be made to a building which is not within a retail use and therefore do not comprise an act of development, and is therefore lawful.

RECOMMENDATION

Grant Unconditionally

The proposed alterations do not comprise an act of development in accordance with the definition set out within Section 55 of the Town and Country Planning Act 1990 and Section 44 of the Town and Country (Development Management Procedure) Order 2015. The proposed alterations would therefore not require planning permission and as such are lawful.

Notes for Applicant:

For the avoidance of doubt, this decision relates to the following list of plans:

24036 DLA ZZ 00 D A 20001 P01 – Location Plan
24036 DLA ZZ 00 D A 20111 P02 – G.A Floor Plans (Existing)
24036 DLA ZZ ZZ D A 00002 P01 – G.A Floor Plans Sketch Options A