

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.	CASE OFFICER	DATE
23/00847/CPL	Claire Ringwood	11 th October 2023

Address: Electro Appliances Services 1 Summer Street Rochdale OL16 1SY

Proposal: Certificate of lawfulness for the proposed sub division of industrial unit (B2) into 4 industrial units (B2)

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
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CHECKED AND SIGNED OFF BY: RG

DATE: 13 October 2023

SITE AND SURROUNDINGS

The application site relates to a single storey 19th century mill, currently in B2 use. The property is constructed using brick with a tin roof. Barbed wire is sited atop the eaves of the building. Access is provided via Hill Street.

The site is located within the defined urban area, a mixed employment zone, and the inner Rochdale physical regeneration area. The building is not listed or located adjacent to a listed building, nor is the site within or adjacent to a conservation area. The site is located approximately 90m east of the Rochdale Town Centre boundary.

PROPOSAL

A lawful development certificate is sought for the proposed sub-division of the existing general industrial unit (B2 use) into 4 separate B2 units. No external alterations are proposed.

RELEVANT PLANNING LEGISLATION

The Town and Country Planning Act (1990) - S.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.
- (3) A certificate under this section shall—
 - (a) specify the land to which it relates;
 - (b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
 - (c) give the reasons for determining the use or operations to be lawful; and
 - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Part 7 – Non-domestic extensions, alterations etc

Amended by:

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2017

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021

The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2021

The Town and Country Planning Act (1990) - S.55

- (1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means 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.
- (1A) For the purposes of this Act “building operations” includes—
- (a) demolition of buildings;
 - (b) rebuilding;
 - (c) structural alterations of or additions to buildings; and
 - (d) other operations normally undertaken by a person carrying on business as a builder.
- (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

National Guidance

National Planning Practice Guidance (NPPG)

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

82/D14578 – Section 53 Determination Use of Premises for the repair and storage of domestic electrical appliances – Grant 06/12/1982

82/D14727 – Change of use of land to car park and formation of new vehicular access and entrance to offices – Grant subject to conditions 01/02/1983

90/D25350 – Change of use of part of workshop/store to retail – Grant subject to conditions 14/02/1991

06/D47717 – Installation of a Parapet wall to hill street elevation of industrial unit – Grant subject to conditions 11/09/2001

23/00265/CPL - Application for a certificate of lawfulness for the proposed subdivision for existing general industrial unit (B2 use) into 4 separate B2 units including formation of new door opening on front elevation. Refused 22/05/2023.

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

The previously refused lawful development certificate included the erection of an external door to the building and this did not comply with Part 7 Class H of the GPDO. The current lawful development certificate does not include any external alterations and Part 7 Class H of the GPDO is not applicable in this instance.

The subdivision of the unit into four units, needs to be considered under Section 55 of the Town and Country Planning Act, given all works to complete this is internal.

S.55(1) of the Town and Country Planning Act 1990 (*The 1990 Act*) sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means 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

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (*The Use Classes Order*) sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the unit proposed to change use and the use class of the proposed use. Where the existing and proposed use do not fall within the same use class, it is necessary to consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Existing Use Class

In light of the planning history at the site, the Local Planning Authority is content to consider the existing lawful use of the site as a B2 Industrial unit. The proposed use would remain the same. To facilitate the subdivision of the unit, internal walls are proposed within the unit. Internal walls are not considered development, under the

definition set out in Section 55 of the 1990 Act, as whilst they are building works, they are alterations that affect the internal building only.

Conclusion

The above assessment concludes that both the existing lawful use and the proposed use would fall within Use Class B2 of the Use Classes Order Amendment Regulations. With regard to Article 3(1) of the Use Classes Order as set out above, it is considered that the proposed change of use to a use falling within the same use class does not involve the development of the land. Whether the change of use would result in a material change to the use of the land does not form a relevant consideration.

In light of this assessment, the development described within the application would be lawful and a certificate of lawful development should be granted.

RECOMMENDATION

GRANT UNCONDITIONALLY

Both the lawful existing use and proposed use would fall within Use Class B2 under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. In accordance with Article 3(1) of The Town and Country Planning (Use Classes) Order 1987, the use of the building for any other purpose within the same class shall not be taken to involve development of the land.

Notes for applicant:

For the avoidance of doubt, the decision relates to the following drawings:-

Location Plan

Statement

Drawing No: 1981/1 – Existing Ground Floor Plan

Drawing No: 1981/2 - Existing Mezzanine Floor

Drawing No: 1981/3 – Existing Elevations and Site Plan

Drawing No: 1981/4 – Proposed Ground Floor Plan

Drawing No: 1981/5 – Proposed Mezzanine Floor

Drawing No: 1981/6 – Proposed Elevations and Site Plan

