

Officer Report

Case Reference: PL/2026/0556
Location: Kingsway Business Park, 216 John Milne Avenue, John Boyd Dunlop Drive, Rochdale, OL16 4NG
Proposal: Application for a Certificate of Lawfulness for proposed internal alterations to an existing storage/distribution building
Recommendation: Approve
Officer: Bob Melling

SITE

The application relates to Plot H within Kingsway Business Park; an established business park set to the north of the M62 and south of Rochdale. Plot H lies at the southern end of the business park, next to the M62 and near to where Dig Gate Lane crosses over that motorway. The application site measures 4.395 hectares in area. The ground levels of the site are generally raised above John Milne Avenue by a height of approximately 5-6 metres. The site is set approximately the same level as the M62 on its eastern boundary and Dig Gate Lane at its southern boundary, however.

The application site is adjoined along its western boundary by John Milne Avenue and beyond that is plot I. The site is adjoined along its northern boundary by the footpath of Moorbank Lane and beyond that, the plot occupied by the warehouse unit occupied by "C.R Laurence". To the northeast is plot C2 and to the south-east is the motorway.

Other nearby buildings within the business park include the Grade II Listed Building of "Broadshaw Farm", some 80m away to the south-west and the large storage/distribution centre occupied by Asda/Wincanton to the west on plot J.

PROPOSAL

The application seeks a certificate of lawfulness for the installation of an internal mezzanine.

HISTORY

98/D35130: Outline application for proposed business park, for B2 General and B1 light industrial use and office uses, B8 distribution and storage uses, C3 hotels, ancillary A1, A2, A3 & D2 retail and leisure uses and C1 residential uses, including details of the uses and siting and means of access to development on plots C, D, E, G, H, I & T. (D35130). Granted - 12 January 2000

09/D52264: Outline application with all matters reserved for a business park within development plots C – X (inclusive), for B2 general and B1 light industrial use and office uses, B8 distribution and storage use, C3 hotels, ancillary A1, A2, A3 & D2 retail and leisure uses and C1 residential uses, (reference D52264). Granted - 13 October 2009

14/00335/FUL: Erection of a warehouse / industrial building for B2/B/8 uses, including ancillary internal offices and transport office, with associated car parking, service yard and landscaping, together with the diversion of an existing right of way. Granted - 21 May 2014

14/00770/FUL: Revised proposal for the erection of a warehouse/industrial building, (with a 3m taller roof height, of 15m to underside of haunch), including ancillary internal offices and transport office, with associated car parking, service yard and landscaping, together with the diversion of an existing right of way. Granted - 26 August 2014

14/01504/AM: Minor material amendment to planning permission 14/00770/FUL in respect of various amendments to the previously approved scheme. Granted - 26 February 2015

15/01369/ANM: Non-material amendment to planning permission 14/01504/AM in respect of the re-location of a gas governor kiosk and a High Voltage ring main unit. Granted - 22 December 2015

20/01543/ANM: Application for non-material amendment to planning permission 14/01504/AM for the provision of a smoking shelter, a waste platform and canopy. air conditioning unit, installation of louvres on the existing building, height restrictor, demountable access ramps and sprinkler tank and pumphouse details. Withdrawn – 25 January 2021

21/00157/FUL: Installation of air conditioning units, ventilation louvres, height restrictor, smoking shelter, waste platform, canopy, demountable access ramps and external lighting. Granted - 23 March 2021

21/00693/FUL: Erection of 3m high acoustic fence. Granted – 16 June 2021

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.

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 update 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 building is lawfully used for storage and distribution purposes within Use Class B8, with no public facing retail element available. 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: APPROVE

Recommendation: Approve

Approval Reason(s) (1)

- 1 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.

Informatives (1)

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

- 1 Covering letter dated 18 June 2026 by Newsteer

LOCATION PLAN. Dwg no. 26029 - ASA - ZZ - EX.ZZSI- D - A - 0001 _ (S0 P01)

MEZZANINE PLAN. Dwg no. 26029 - ASA - ZZ - ZZ.ZZ- D - A - 0002 _ (S0 P03)