

Development Management Unit
Eastleigh Borough Council
Eastleigh House
Upper Market Street
Eastleigh SO50 9YN

Our Ref
Your Ref PP 11603481
Date 08 October 2022

Dear Sir / Madam,

**UNIT A1, HAMILTON BUSINESS PARK, HEDGE END, SOUTHAMPTON SO30 2JR
LAWFUL DEVELOPMENT CERTIFICATE APPLICATION**

I have submitted, via the Planning Portal, an application for a certificate of lawfulness, under the provisions of section 191 of the Town and Country Planning Act 1990. The application seeks a certificate to the effect that continued occupation of Unit A1 at Hamilton Business Park in respect of the existing use of Unit A1 Hamilton Business Park, Hedge End in breach of a condition.

The documents that accompany and form part of this application are listed in the schedule below. In addition, the relevant application fee has been paid on-line via the Planning Portal.

Outline planning permission was granted for the construction of commercial buildings at Site A of Hamilton Business park, under reference 14894/046 dated 8 April 2003. Matters reserved by the outline permission were approved under reference 14894/047 dated 2 September 2003.

The development was constructed as approved and Unit A1 was occupied by Tileflair from 29 July 2004. The unit has been occupied ever since by that company as a retail showroom specialising in the display and sale of tiles and related items.

Condition 14 attached to planning permission 14894/046 states:

"Any trade/retail showroom to be provided within the units hereby permitted shall at all times remain ancillary to the principal use of the units and shall not exceed 25% of the gross ground floor area of any unit."

The internal arrangement of the unit has remained unchanged since it first opened for business in July 2003. Prior to that opening, as part of the internal fit-out of the building, an internal partition was constructed as shown on the existing floorplan drawing which accompanies this application (Drawing No KAD 01A EX A). That internal partition, which remains in place as originally constructed in 2004, separates a warehouse/storage area at the rear of the unit from the retail showroom which occupies the front part of it. Of the total 600 sqm of floorspace within the unit, the retail showroom occupies 350 sqm, and has done for the last 18 years since July 2004.

A statutory declaration sworn by Richard Russell Andrew, Chairman of Hargreaves Developments Limited the owner of the unit, attests to the facts of the development of the unit, its occupation since its construction, and the present position. This provides clear evidence of the non-compliance with condition 14 of the planning permission.

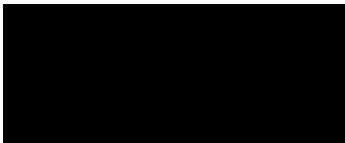


The 350 square metres of floorspace laid out as retail showroom within Unit A1 represents 58% of the total floorspace of the unit. This is in conflict with the terms of condition 14 which provides that no more than 25% of the floorspace is to comprise retail showroom area. This situation has existed unchanged at Unit A1 since July 2004 and the condition has been breached continuously for more than 18 years. No enforcement action has ever been initiated by the Council against the breach of condition 14 of the planning permission.

Section 171B(3) of the Town and Country Planning Act 1990 provides that, in such circumstances, no enforcement action can now be taken to require compliance with the condition. Section 191(3) of the 1990 Act provides that any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful if the time for taking enforcement action in respect of the failure has expired.

It follows from this that continuation of the Tileflair operation at Unit A1, involving its use as a retail showroom, is lawful without compliance with condition 14 of planning permission 14894/046. I look forward to receiving a Certificate to this effect, accordingly.

Yours faithfully,



Rob Huntley

**UNIT A1, HAMILTON BUSINESS PARK, HEDGE END, SOUTHAMPTON SO30 2JR
APPLICATION UNDER S191(3) OF THE TOWN AND COUNTRY PLANNING ACT 1990
BREACH OF CONDITION 14 OF PLANNING PERMISSION 14894/046**

SCHEDULE OF APPLICATION DOCUMENTS

Covering Letter / Planning Statement	RHPC letter dated 08/10/2022
Lease Plan	Showing location of Unit A1
Statutory Declaration of R R Andrew	dated 30/09/2022
Existing Floor Plan	Drawing No KAD 01A EX A
Planning Permission	Ref 14894/046 dated 08/04/2003
Approved Plan of Unit A1	Drawing No 141 101A 101 C
Annotated Plan	Showing showroom etc areas