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Our ref.
Your ref. PP-13629283

18 December 2024

Dear Sir/Madam,

**CERTIFICATE OF LAWFUL FOR EXISTING USE OR DEVELOPMENT
LAND OFF DUTTON LANE, EASTLEIGH**

Please find enclosed an application for a Lawful Development Certificate for Existing Use or Development at Land off Dutton Lane, Eastleigh (Planning Portal Reference No: PP-13629283). The submission comprises the appropriate application form and the requisite fee has been paid to the local authority.

The land and development to which this application relates is defined by a red line in the supporting Site Location Plan and has been in use for Storage and Distribution (B8) for a period well in excess of 10 years. See also an indicative aerial view of the site in Appendix 1.

A Certificate of Lawful Existing Use or Development (CLUED) is a legal document regularising unauthorised development. In order to do this the Applicant must demonstrate that the property has constantly been in the same use in line with the time limits set out below.

A CLUED is issued by the Local Planning Authority (LPA) and establishes conclusively that a use or development (or both) of land is lawful. In this case the Applicant will demonstrate that an existing use or development is of such long standing as to be immune from enforcement action.

Once granted, the CLUED remains valid for the use or development in it, on the land it describes, provided there is no subsequent material change in the circumstances.

The relevant time limits are set out at 171B of the Town and Country Planning Act 1990 stating: -

Time limits

- (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:-

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- 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.”

...

- (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.

This supporting covering letter clearly demonstrates that the site has been in Storage and Distribution (B8) use for circa 60 years; well in excess of the requisite 10-year period. Consequently, whilst our client seeks formal confirmation from the Council that they accept there is longstanding historic usage, our main aim is to establish the de facto position; that the proposed continued use is also lawful.

Planning History

A review of the site’s relevant planning application history has been undertaken using the Council’s Public Access and is summarised below.

On 12 June 2015, the site gained temporary planning consent for the following development (Application Ref No. F/15/76368): -

“Change of use from parcel distribution depot (Sui Generis) to open vehicle storage (B8) with ancillary portacabin/ office for a temporary period of 5 years.”

Condition 2 attached to the consent made clear that: -

“the use hereby permitted shall be for a limited period of five years from the date of this permission. On or before this date the permitted use shall cease and the land shall revert back to its former use.”

Condition 11 attached to the consent restricted the operational hours of the development to as follows: -

“The development hereby permitted shall not operate except between the hours of 08:00 hours and 17:00 hours and no deliveries shall be received or dispatched from the site except between the hours of 08:30 hours and 16:30 hours.”

Planning Case

The Site subject to this CLEUD application and the wider site (see blue line boundary on submitted Site Location Plan) has been in use as parcel distribution centre between the 1960s up to 2015, without the benefit of planning permission. It is understood that UPS vacated the site in 2014 and all buildings on the wider site were demolished, except for the maintenance workshops in the northern parcel.

Appendices 1-15 submitted in support of this application clearly show that the site has been in use as B8 since at least the year 2000 to 2022.

As previously discussed, a planning application was approved by the Council for the “*change of use from parcel distribution depot (Sui Generis) to open vehicle storage (B8) with ancillary portacabin/ office for a temporary period of 5 years*” in June 2015. It is not clear why the parcel distribution centre was considered to be Sui Generis, as it is clearly a B8 use. The previously approved application therefore served to change the use of the site from a B8 use to another B8 use, which does not require planning permission. Recent examples of planning applications referring to parcel distribution centres as being B8 are set out in Table 1 below. That aside, the temporary consent lapsed on 12 June 2020 following the cessation of the 5-year period. The land therefore reverted back to its former use – a parcel distribution centre – which as evidenced above falls within Use Class B8 of Schedule 1 Part B of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. The former use had no restrictions on operational hours.

Since 2020, the site has been used for open vehicle storage with an ancillary portacabin and office. The site has recently been cleared so as to accommodate Get Yards operations.

Table 1

Local Planning Authority	Planning Application Ref No.	Description of Development	Decision/ Date
Crawley Borough Council	CR/2023/0197/FUL	Demolition of existing buildings and erection of a parcel distribution centre (Class B8) including car and cycle parking, servicing, landscaping, new access and associated works	Approved – 26/01/2024
City of York Council	21/00796/FULM	Erection of distribution facility (use class B8) including formation of vehicle access onto Glaisdale Road	Approved 27/08/2021
Cherwell District Council	20/00530/F	Full planning application for 4,635sq. m of logistics floor space, within Class B8, including ancillary Class B1 (a) office, (592sq.m), a customer collection facility (112 sq.m), staff mess pod (142 sq.m), and associated infrastructure including external service yard, lorry, van and staff car parking, re-fuelling facility, fencing, landscaping, storm water drainage and private sewage treatment plant, with an access road off Morrell Way	Approved – 05/06/2020

In the interests of clarity, our client, Get Yards is proposing to use the Site for open storage, which is also B8 use as defined by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, and further amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015. The proposed use therefore would not result in a change of use of land.

It is evidently clear from the information set out above and in the supporting appendices that this site has been in B8 use for a period well in excess of 10 years. It is therefore the Applicant's case that this long-standing use of the land is lawful and that the proposed longstanding use is also lawful.

I look forward to receiving the Council's confirmation on the above.

Yours faithfully,



Annabelle Parkinson
Planner

Enc.

Appendix 1 – Indicative Aerial View of the Site

