

PLANNING STATEMENT

PROPOSAL : CERTIFICATE OF LAWFULNESS APPLICATION FOR A PROPOSED USE UNDER SECTION 192 OF THE TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED BY SECTION 10 OF THE PLANNING AND COMPENSATION ACT 1991)

ADDRESS : UNIT 4F BARTON PARK INDUSTRIAL ESTATE, CHICKENHALL LANE, EASTLEIGH, HAMPSHIRE, SO50 6RR

APPLICANT : ADAMS MOREY LTD

DATE : JUNE 2025 JOB No. : 2024-2961

1.0 INTRODUCTION

This statement is submitted in support of a certificate of lawfulness under Section 192 of the Town & Country Planning Act 1990 (as amended) that the proposed use of Unit 4F, Barton Park Industrial Estate, Chickenhall Lane, Eastleigh, Hampshire for the maintenance and repair of trucks and vans together with a MOT testing station is lawful in planning terms and therefore does not require prior planning permission from the Council.

The application has been submitted by Sammons Architectural Ltd on behalf of Adams Morey Limited and is accompanied by drawing numbers 2024-2961-01, 2024-2961-02A, 2024-2961-15, 2024-2961-16 and 2024-2961-17 all of which should be read in conjunction with this statement.

2.0 SITE DESCRIPTION

The application site is within the urban edge, is part of an existing employment site and falls within the Eastleigh River Side designation. The Barton Park Industrial Estate contains a number of longstanding industrial / commercial units. The application site is clearly identified on the submitted location and block drawing numbered 2024-2961-15.

3.0 PROPOSAL

The application seeks a Certificate of Lawfulness under Section 192 of the Town and Country Planning Act 1990. The development relates to the proposed use of the building known as Unit 4F Barton Park Industrial Estate for the maintenance and repair of trucks and vans together with an MOT testing station.

4.0 PLANNING POLICIES & GUIDANCE

Section 192 (1) of the 1990 Town and Country Planning Act states that: If any person wishes to ascertain whether— (a) any proposed use of buildings or other land is lawful; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

Section 192 (2) of the 1990 Town and Country Planning Act also states that: 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.

These sections therefore allow persons to apply to the local planning authority (LPA) in writing for formal confirmation that the proposed development or use they propose to carry out is lawful. This is determined on the facts of the case and relevant planning law. The various procedures in relation to lawful development certificate applications are described in Article 39 of the Town and Country Planning (General Development Procedure) Order 2015.

When considering the evidence associated with the local development certificate application, the relevant test is “the balance of probability”. National Planning Practice Guidance In the section on Lawful Development Certificates, Paragraph 005 states that the information in a Lawful Development Certificate application must be sufficient and precise.

Paragraph 006 states that the applicant is responsible for providing the necessary evidence to support an application. Although the local planning authority is able to canvas other evidence, it must share this with the applicant and provide them with the opportunity to respond. In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

Paragraph 009 states that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

4.0 ASSESSMENT

Adams Morey, the applicant, is part of the Greenhous Group the largest privately owned dealership group in the UK. Founded in 1973 they currently have 14 sites throughout the South Coast and South West of England. They specialise in: new and used DAF Trucks including the new DAF Electric range, new and used Fiat vans, commercial vehicle maintenance and repairs and all-makes commercial vehicles parts through TRP and Adams Morey All-Makes Parts.

Whilst they currently operate from a site at Eastleigh / Southampton Airport this facility is leased on a 3 month rolling contract which offers the company little in the way of security especially having regard to the airports expansion plans and the fact that the existing site will be repurposed. In addition the existing site is further constrained in terms of parking restrictions and prohibition of certain facilities such as vehicle washing etc all of which means that the site is no longer particularly attractive for them.

The application site has therefore been leased by the applicant as a replacement for the existing airport site. This site provides potential for growth, improved facilities, security improvements, stability and allows the opportunity to diversify into LCV and the potential to embrace electric vehicle servicing.

This industrial unit has recently become vacant following the departure of the previous tenant Brenhaul who had occupied it in excess of 10 years. It appears to have been used as a vehicle workshop in the past but has now been refurbished in preparation for new tenants. Adams Morey Ltd do not intend to undertake any external alterations to the existing unit but they will be carrying out some internal changes and repairs so the building is suitable for their business activities.

The Town and Country Planning (Use Classes) Order 1987 (as amended) categorises different types of property and land into classes. Change between uses within the same class does not constitute development and therefore does not require planning permission. The existing and longstanding lawful use of Unit 4F has been for Class B2 General Industry as it was previously used by Brenhaul for maintenance of commercial vehicles.

A pd enquiry reference PD/25/99265 which sought confirmation of the lawful use of the site was submitted to the council. A copy of the letter, dated 28th May 2025, in response to the pd enquiry confirmed that this unit had a lawful class B2 use is attached as Appendix A to this statement.

Use Class B2 relates to the carrying on of an industrial process, other than one falling within the uses described in Schedule 2, Class E, subparagraph (g). Schedule 2, Class E, subparagraph (g) relates to any industrial processes, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Amongst other things, Article 2 of the Use Classes Order includes in the definition of "industrial process" the making of any article or part of any article. The altering, repairing, maintaining, finishing, cleaning, washing [...] of any article is also an industrial process. On that basis, it is clear that MOT testing and associated motor vehicle repairs, which involves altering, repairing and maintaining motor vehicles is an industrial process. Use Class B2 encompasses use for an industrial process other than one falling within the uses described in Schedule 2, Class E, sub-paragraph (g) (Schedule 2, Class E, sub-paragraph (g) relating to industrial processes that may be carried out in a residential area).

The Driver and Vehicle Standards Agency (DVSA) regulate MOT Testing Stations, and they have requested Adams Morey Ltd to provide the necessary planning confirmation to prove that the site can be lawfully used for this purpose before they will issue them with a licence and approval to carry out MOT Tests from the site. Whilst the Council have already confirmed that the proposed use can be carried out without any further consent in an email dated 2nd June 2025, see Appendix B, this is not sufficient to satisfy the above. Adams Morey Ltd therefore require a Certificate of Lawfulness to confirm that the proposed use would be lawful.

The National Planning Practice Guidance explains that planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in section 55 of the Town and Country Planning Act 1990.

'Development' includes:

- o building operations (eg structural alterations, construction, rebuilding, most demolition);
- o material changes of use of land and buildings;
- o engineering operations (eg groundworks);
- o mining operations;
- o other operations normally undertaken by a person carrying on a business as a builder.
- o subdivision of a building (including any part it) used as a dwellinghouse for use as 2 or more separate dwelling houses

The categories of work that do not amount to 'development' are set out in section 55(2) of the Town and Country Planning Act 1990. These include, but are not limited to the following:

- o interior alterations (except mezzanine floors which increase the floorspace of retail premises by more than 200 square metres)
- o building operations which do not materially affect the external appearance of a building. The term 'materially affect' has no statutory definition, but is linked to the significance of the change which is made to a building's external appearance.
- o a change in the primary use of land or buildings, where the before and after use falls within the same use class.

Based on the above, it is clear from the evidence provided that the lawful use of the building is B2 and MOT testing and associated motor vehicle repairs, falling within that same use, can take place on the site and that the proposed internal alterations would also not need any further consent as they would not constitute development.

6.0 CONCLUSION

The council have already established that the application site has a lawful B2 General Industrial use following the submission of a pd enquiry under referenced PD/25/99265. They have also rather usefully confirmed that the proposed use of the application site for the maintenance and repair of trucks and vans together with a MOT testing station would be lawful and not require any further consent. The applicant seeks formal confirmation of this via the submission of this certificate of proposed lawfulness application.

According to 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 existing and proposed general industrial uses fall under the B2 Use Class. We would therefore respectfully request the Council to grant / issue a Certificate of Lawfulness under the provisions of Section 192 of the Town and Country Planning Act 1990 (the Act) (as amended) to confirm that the use of the premises for the maintenance and repair of trucks and vans together with MOT testing station does not constitute a material change of use and would therefore be permitted development, not requiring planning permission, or the prior approval of the Local Planning Authority.

APPENDIX A



DAN RAWLINGS
LAMBERT SMITH HAMPTON

Application	PD/25/99265
Please ask for	Sarah Douglas
Direct dial	023 8068 8313
Working hours	Mon 1-5, Wed 9-5, Fri 9-5
Email	sarah.douglas@eastleigh.gov.uk

BY EMAIL

Wednesday 28 May 2025

Dear Sir

Application No: PD/25/99265
Description: Use Enquiry: Proposed use of units for Class B2 Use
Site: UNIT 4A AND UNIT 4F BARTON PARK, CHICKENHALL
LANE, EASTLEIGH, SO50 6RR

I refer to your enquiry concerning the above premises. Based on the information contained in your correspondence of Wednesday 23 April 2025 and along with the records we keep here at Eastleigh House, I am of the opinion that:

- 1 The existing use of Unit 4A Barton Park as a Bus Vehicle Depot is 'sui generis' which would require an application to change the use to Class B2 as it is not a permitted change under Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

An application for change of use can be applied for online via the Planning Portal at www.planningportal.co.uk

- 2 The existing use of Unit 4F Barton Park is Class B2 and would not require an application to change its current use.

May I suggest that you retain this letter should it be required at a later date.

Yours faithfully

A handwritten signature in black ink that reads "N Parker". The signature is written in a cursive, flowing style.

Nicholas Parker
Planning Manager

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN

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APPENDIX B

From: Douglas, Sarah <Sarah.Douglas@eastleigh.gov.uk>

Sent: 02 June 2025 15:56

To: Planning <Planning@sammonsLtd.co.uk>

Subject: REF. PD/25/99265 - UNIT 4F BARTON PARK, CHICKENHALL LANE, EASTLEIGH. SO50 6RR

Dear Teresa,

Thank you for your email.

I can confirm that the proposed use of Unit 4F Barton Park by Adams Morey for the maintenance and repair of trucks and vans together with MOT testing would fall within Class B2 use, and would not require an application for change in use.

Kind regards

Sarah.

Sarah Douglas

Planning Technician

Planning & Environment - Planning/Development Management

023 8068 [8313](tel:02380688313)



Eastleigh Borough Council | Eastleigh House | Upper Market Street | Eastleigh | SO50 9YN

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From: Planning <Planning@sammonsltd.co.uk>
Sent: 02 June 2025 09:10
To: Douglas, Sarah <Sarah.Douglas@eastleigh.gov.uk>
Subject: UNIT 4F BARTON PARK, CHICKENHALL

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Good morning Sarah I refer to the attached pd enquiry for the above site.

The attached letter confirms that Unit 4F is Class B2. The incoming tenant Adams Morey intend to utilise the space to repair and maintain both trucks and vans as well as undertake class 7 MOT's. My understanding is that this use would fall within a B2 use as MOT testing and associated motor vehicle repairs, which involves altering, repairing and maintaining motor vehicles is an industrial process.

Whilst some internal works are required to facilitate the proposed use such as the reinstatement of the inspection pit along with brake and beam testers, installation of new two and four post lifts and a class 7 MOT lane these all comprise of internal works which would not constitute development under the meaning of Section 55 of the Planning Act.

No external alterations are proposed with the exception of the new DAF signage as indicated on the elevation drawing which will be subject to separate applications for advertisement consent by the signage supplier.

I would be grateful if you could please provide confirmation of the above by return of email.

Kind Regards

Teresa Critchlow BA(Hons), MPlan

For and behalf of



t: 01538 386002 | w: www.sammonsltd.co.uk

10 Cawdry Buildings, Fountain Street, Leek, Staffordshire, ST13 6JP

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