



DELEGATED OFFICER REPORT

Application Number:	242552
Site Address:	Unit 9, Newlands Farm, New Bath Road, Twyford, RG10 9RY
Expiry Date:	4 December 2024
Site Visit Date:	6 December 2023
Proposal: Application for a certificate of existing lawful development for change of use of Unit 9 to storage and distribution (Class B8).	

PLANNING HISTORY

Application No.	Description	Decision & Date
191788	Application for a certificate of existing lawful development for change of use of Unit 4 to storage and distribution (Class B8).	Refused on 14/11/19 and allowed at appeal
242551	Application for a certificate of existing lawful development for change of use of Unit 4 to storage and distribution (Class B8).	Pending consideration
242553	Application for a certificate of existing lawful development for change of use of Unit 10 to storage and distribution (Class B8).	Pending consideration

BACKGROUND INFORMATION

Newlands Farm is located on the western side of New Bath Road (A4).

The site consists of 11 separate units that were allowed for B2 (General Industrial) use on appeal following the refusal of planning application 191788. During an enforcement investigation at the site, it was determined that that three of the units at Newlands Farm, including Unit 9, are operating as Class B8 Storage and Distribution uses, in breach of what was allowed under appeal.

PROPOSAL AND APPRAISAL

This application seeks to confirm that the change of use of unit 9 from a B2 use to a B8 use is lawful. This is not sought by virtue of the passage of time (known as the '10 year rule') but rather because it constitutes as Permitted Development by virtue of the General Permitted Development Order (2015). A certificate of lawfulness for a proposed change of use could not be submitted given the change of use has occurred, however this application will be assessed in the same way (despite being an 'Existing' certificate of lawfulness).

Planning policies are not material in the determination of a certificate of lawfulness application. Officers can only determine as to whether the change of use would have been permitted development.

The unit is used for the long-term storage of items related to an off-site business. No paying customers visit the unit.

Turning to whether the development would constitute as permitted development, Class I of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) refers to Industrial Conversions. Development permitted under Class I is: *“Development consisting of a change of use of a building from any use falling within Class B2 (general industrial) of Schedule 1 to the Use Class Order, to a use for any purpose falling within Class B8 (storage and distribution) of that Schedule.”*

Development is not permitted under Class I if the change of use relates to more than 500 square metres of floor space in the building.

In this case, the unit was formerly in a B2 use and this was the lawful use granted planning permission. The unit is now agreed to be within a B8 use. Furthermore, the size of the unit is below 500 sqm, measuring an area of approximately 230 sqm. It is acknowledged that units 9, 10 and 11 are within one structure and the LPA consider this to be the ‘building’ in question rather than each unit being individually classified as a ‘building’. Therefore, across units 9, 10 and 11, no more than 500 sqm of floorspace can be converted to B8 use. Unit 9 proposes 230 sqm, and unit 10 proposes 145 sqm of floorspace to change from B2 to B8 use (see WBC application ref. 242553). As such, cumulatively, less than 500 sqm of floorspace within the building is being converted.

Taking the above into account, the change of use of unit 9 from a B2 to B8 use does not require planning permission and constitutes as permitted development under Class I of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION

Grant a certificate confirming that the change of use of Unit 9 from B2 to B8 is lawful and does not require planning permission by virtue of Class I of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Date:	25 November 2024
Earliest date for decision:	31 October 2024

Recommendation agreed by: (Authorised Officer)	
Date:	25/11/24