

UTT/1699/11/CLP (Aythorpe Roding)

(Referred to Committee by Cllr Barker. Reason: Local residents do not feel that this falls within the use class sought).

PROPOSAL: Certificate of lawful use for proposed use of building for Class B2 (General Industrial) with ancillary storage.

LOCATION: Windmill Works, Keeres Green, Aythorpe Roding.

APPLICANT: Alloy Fabweld Ltd.

AGENT: Philip Livings Limited

GRID REFERENCE: TL 592- 142

EXPIRY DATE: 18.10.2011

CASE OFFICER: Joe Mitson

APPLICATION TYPE: Other

1. NOTATION

1.1 Beyond Development Limits.

2. DESCRIPTION OF SITE

2.1 The site comprises an industrial building with a yard for parking, turning and storage to the front. The building is in use as a paper merchant.

3. PROPOSAL

3.1 The proposal comprises a certificate of lawful use for the proposed use of the building and site for B2 use (general industrial).

4. APPLICANT'S CASE

4.1 The site comprises 0.715 ha of land and is an L shape building totalling 2,300sqm. The building is currently occupied by Page & Co, paper merchants, who operate a B2 use for processing and distributing paper with ancillary storage. In 1981 permission was granted for a change of use of the scrap yard to the current business dealing in the conversion and storage of paper. Page & Co was originally granted permission for joint industrial and storage in 1983 including a new paper storage building at the rear and additional office space. A revised approval was granted in 1985 for a new storage building.

4.2 Page & Co currently have all their manufacturing operations in the first three bay workshop in the northern part of the site which totals 1000sqm, around 80sqm of this building is used as ancillary offices with the remaining 920sqm used as B2 general industrial. The building to the rear comprises 1300sqm of ancillary storage. The site has been used for these activities for at least 25 years. Over the years the site has employed up to 30 people and has generated considerable daily movement of vehicles including HGV's. The industrial use was confirmed by a Planning Inspector four years ago.

4.3 The proposed occupants are Alloy Fabweld who also fall into the B2 use being an architectural metal works company based in Great Dunmow.

4.4 The planning unit is the key element as the whole site comprises B2 use, the second building was granted permission for storage use but only in direct association with the primary B2 activity, it cannot be used separately from the main building and therefore has no independent rights.

5. RELEVANT SITE HISTORY

5.1 UTT/0914/81 granted permission for a change of use from a scrap metal business to a paper business dealing in the storage and conversion of paper. UTT/0172/82 granted outline permission for a paper storage building and additional office accommodation. Detailed approval was granted under UTT/0172/82A. UTT/0233/82 approved a change of use of the existing building from scrap metal storage to joint industrial/storage use.

6. POLICIES

As this is an application for a Certificate of Lawful Use a decision needs to be made on the facts and legal considerations and therefore no policies are relevant.

7. PARISH COUNCIL COMMENTS

7.1 Aythorpe Roding Parish Council strongly objects on the grounds that do not agree the site is B2 and believes that the use of the business falls within B1 (c).

8. CONSULTATIONS

Legal Officer supports the granting of a certificate.

9. REPRESENTATIONS

9.1 Neighbour notification period expired 4th October 2011. Letters from 4 residents have been submitted stating the following:

- No historical planning document relates to a B2 use until 2000, there is no evidence of B2 being the default use, the paper merchants would be B1/B8;
- The original stores buildings were approved for storage only with no mention of industrial use, a 1981 permission related to a paper business dealing with storage and conversion of paper and an approval in 1982 related to additional office space and storage, an approval in 1982 allowed a change from scrap metal storage to joint industrial/storage use;
- A retrospective application for B2 was refused in 2000;
- There are differences between the current use and proposed use in terms of noise, operations, machinery, chemicals, traffic movement, number of staff, pollution and fire hazards;
- The premises is totally inadequate to cope with the additional staff and vehicles;
- It is assumed the current use is B1/B2.

10. APPRAISAL

The issue to consider in the determination of the application is:

A Whether the site can be used for B2 purposes without the need for planning permission.

10.1 The submission seeks a Certificate of Lawful Use for the proposed use of the building for Class B2. This assessment needs to be made on the versions facts of the case and not on Planning Policy or the amenity impact of the development. The current use of the building is a paper merchant and the operation comprises the

processing, storage and distribution of the resultant goods. The main operation is the paper processing with the storage and distribution being the resultant ancillary operation. The use class of this operation is considered by offices to be B2. (General Industry)

- 10.2 The site has a detailed history which includes permission being granted for a paper business dealing in the storage and conversion of paper. UTT/0914/81 granted a change of use from a scrap yard to a paper business, UTT/0233/82 approved a change of use from scrap merchants to joint industrial/storage and UTT/1361/85 approved a new storage building. A condition of that permission stated that the use shall relate solely for storage use as applied for and remain ancillary to the main use of the site. Permission was refused under UTT/0026/00/FUL for the retention of a B2 use on the grounds that it would be contrary to relevant policies.
- 10.3 It is considered that the building on the site has been used as a paper merchant for a considerable time and is the lawful use. This use is considered to fall within Class B2. Although reference has been made to ancillary offices and storage this has been in connection with the use of the site and conditioned accordingly. As such the overall planning unit is B2 with the storage and distribution element relating only to the products manufactured on the site.
- 10.4 The proposed use falls within Class B2 as the lawful operations involve industrial processes other than those falling within Class B1. It is not considered that the use is B1(C) as such operations can be carried out within a residential area without causing detriment to the amenity of that area. The processes involved in the lawful use have the potential to adversely affect residential amenity. It is therefore considered that the proposed operation would be within the same class as the established use. Notwithstanding the comments received a convincing case has been made to support the certificate.

11. CONCLUSION

The following is a summary of the main reasons for the recommendation:

- A A convincing case has been submitted to demonstrate that on the balance of probabilities the property known as Windmill Works has an established B2 use and the proposed use of the site falls within a B2 use.

RECOMMENDATION –GRANT THE CERTIFICATE.

Take notice that Uttlesford District Council in exercising its powers as Local Planning Authority hereby certify that on 23rd August 2011 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and as illustrated in the plan attached to this Certificate, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:- The proposed use of the building falls within Class B2 (General Industry) and the site has an established B2 use. As such the proposal would constitute a lawful use and a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) is granted in respect of those operations.

First Schedule

Use of the building for Class B2 (General Industrial).

Second Schedule

The land and property known as Windmill Works, Keeres Green, Aythorpe Roding.

Notes.

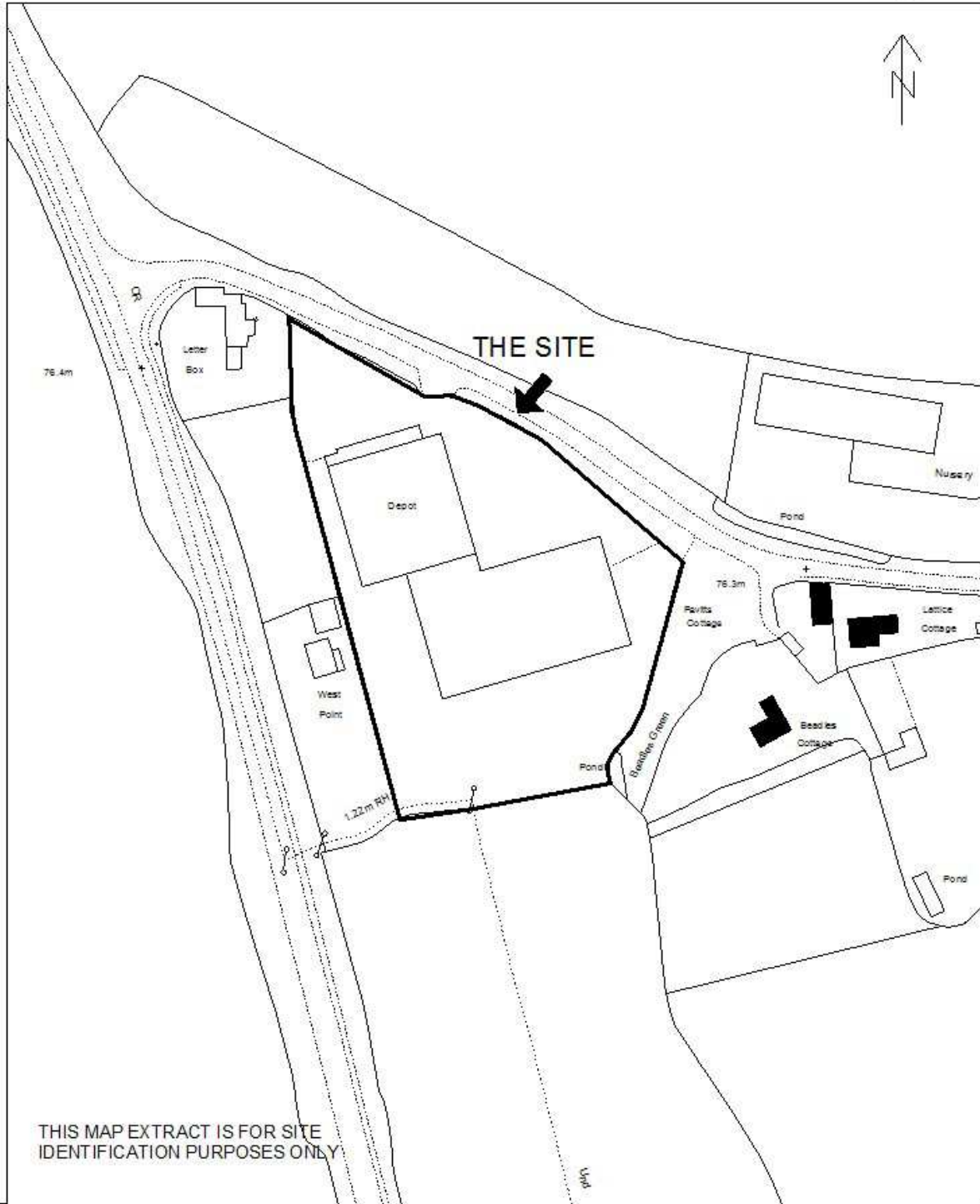
This certification is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful on the specified date and thus would not have been liable to enforcement action under section 172 of the 1990 Act on that date.

This certificate applies only to the extent of the operations in the First Schedule and in the land specified in the Second Schedule and identified on drawing P1511. Any operations which are materially different from those described or which relates to other land may render the owner or occupier liable to enforcement action.

The effect of the certificate is also qualified by the provision in section 192 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any case of the matters relevant to determining such lawfulness.

Any conditions relating to relevant planning approvals on the site must also be complied with notwithstanding the issuing of the certificate.



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DATE:07/11/2011

MAP REFERENCE:T15914SW

SCALE:1:1250