

Delegated Application Report

Address: 357 Basingstoke Road

Application No: 201710/CLE

Proposal: Certificate of Lawfulness for existing B8 (coach storage) with ancillary B2 use (General Industrial - on site workshop) and B1(a)/ E(g)(i) use (Office - on site office) (amended)

Agreed Target Date: 14/05/21

Case Officer: Connie Davis

Introduction & Proposal

The application site is a two-storey end of terrace property located on the eastern side of Basingstoke Road. The surrounding area is residential.

The proposal seeks to confirm that 357 Basingstoke Road (not the dwellinghouse, this is no. 357a), has a lawful B8 use. The site is the former garden of no. 357a Basingstoke Road. A portion of the land formerly owned by the adjoining neighbour, no. 355, was also purchased and is now part of the application site.

The application also seeks to confirm that ancillary B2 and B1(a)/E(g)(i) use are also on site. A detached workshop and office are used for the servicing of coaches on site; not acting as an independent workshop for vehicles not owned by the company.

Due to the changes in the Use Classes Order in September 2020, former B1(a) use has been replaced by E(g)(i). The changes in the use class is still in the transitional period which lasts until July 2021. Therefore, both the old and new use class has been referred to in the description of development and within the report. Use classes B2 and B8 remain unaltered.

Relevant Planning History:

190891/FUL - Removal of existing rear workshop, store and metal container with the erection of a new purpose built workshop - Application Refused

Relevant Planning Policy & Guidance:

Annexure 8 "Lawfulness and the Lawful Development Certificate" of Planning Circular 10/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements' sets out the procedure for assessing applications for certificates of lawfulness:

Section 191(1) of the 1990 Act enables anyone to apply to the LPA for a decision on whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

The onus of proof in a LDC application is firmly on the applicant. Subsection (4) of section 191 provides that if, on an application under the section, the LPA are provided with information satisfying them of the lawfulness, at the time of the application, of the use, operations or other matter described in the application, or that description as modified by the LPA or a description substituted by them (see paragraph 8.35 below), they shall issue a certificate to that effect; and, in any other case, they shall refuse the application'.

Para 8.3 states, 'by virtue of section 191 (2), uses and operations are "lawful" if no enforcement action may be taken against them **and** they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), *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 and*

it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.'

Consultation Responses:

Planning Enforcement - Had dealings with the property in 2003 regarding the extension to the coach park (as the site was using a piece of land formerly owned by no. 355). The conversion of this portion of land would have needed planning permission to change the use from residential curtilage to part of a business premises. However, the change of use was not considered expedient to pursue. It was also confirmed in the letter from the previous owner that this portion of land had been used for business purposes since 1989.

Business Rates - No record of the address being registered for business rates.

Environmental Health - No response received and no Environmental Health information on file relevant to this use.

Legal - Considered sufficient evidence had been demonstrated to confirm the primary use of the site as B8 use. If minded to grant the certificate, the description of development should specify that the associated B2 and B1(a) uses are ancillary to the B8 use.

Submitted Evidence (in chronological order)

Date	Content
Letter dated 26 th July 1989	to Mrs Brown - enquiry
Letter dated 20 th August 1990	to Mrs E Brown - enquiry
Letter dated 24 th July 1991	to Mrs Brown - enquiry
Letter dated 9 th January 1995	to parents of school children
Letter dated June 1998	to Mrs Lea
Letter dated 15 th June 1999	to Mrs E Ware
Letter dated 8 th July 1999	to King Fisher Mini coaches from Henley & District Agricultural Association for a quote
Letter dated 25 th May 2000	to King Fisher Mini Coaches from Henley & District Agricultural Association
Letter dated 7 th March 2001	to King Fisher Mini Coaches from Henley & District Agricultural Association
Letter dated 16 th June 2002	to Mrs E. Smith
Letter dated 25 th March 2004	to King Fisher Mini Coaches from Henley & District Agricultural Association
Letter dated 23 rd August 2004	to King Fisher Mini Coaches from Crosfields School
Letter dated 2 nd March 2005	to King Fisher Mini Coaches from Crosfields School
Letter dated 16 th March 2005	to King Fisher Mini Coaches from Henley & District Agricultural Association
Letter dated 21 st February 2006	to King Fisher Mini Coaches to King Fisher Mini Coaches from Henley & District Agricultural Association
Invoice dated 1 st April 2006	from King Fisher Mini Coaches to Accounts
Letter dated 8 th February 2007	to King Fisher Mini Coaches from Leighton Park School
Letter dated 24 th October 2007	from Henley & District Agricultural Association to King Fisher Mini Coaches
Letter dated 29 th October 2008	from Henley & District Agricultural Association to King Fisher Mini Coaches

Letter dated 14 th October 2009	from Henley & District Agricultural Association to King Fisher Mini Coaches
Letter dated 30 th January 2010	to Reading Borough Council
Letter dated 30 th January 2010	to West Berkshire Council Transport Services
Letter dated 28 th October 2010	to King Fisher Mini Coaches from Henley & District Agricultural Association
Tax dated 4 th May 2012	Invoice to Reading Borough Council
16 th May 2012	Temporary Motor Cover note
Receipt dated 10 th May 2012	issued by King Fisher Mini Coaches
14 th June 2012	Invoice to University of Reading
18 th October 2013	Invoice from National Windscreens
Letter dated 1 st October 2013	2013 to Henley & District Agricultural Association from King Fisher Mini Coaches
12 th August 2014	Thames Water bill
Invoice dated 21 st August 2014	to King Fisher Mini Coaches from Reading TPS
22 nd October 2013	Bill from BT
18 th November 2014	Bill from BT
Invoice from Wordpay dated 1 st May 2015	addressed to Coach Services Reading Ltd
13 th May 2016	Purchase order from Oxfordshire County Council
17 th June 2016	Remittance advice letter from Oakbank School
23 rd June 2016	Payment letter from Oxfordshire County Council
Invoice dated 30 th September 2016	Remittance advice from Wokingham Borough Council
1 st December 2016	SSE bill addressed to 'The Workshop'
21 st April 2017	BT bill
23 rd July 2018	BT bill
23 rd November 2018	SSE bill addressed to 'The Workshop'
22 nd February 2019	BT bill
25 th November 2019	SSE bill addressed to 'The Workshop'
23 rd March 2020	BT bill
3 rd September 2020	SSE bill

- Statutory declarations dated 16th November 2020 from Albert Mapp (Employee for 10 years)
- Statutory declaration from Victor Smith from Victor Smith who has lived at no. 357a Basingstoke Road for 20 years
- Planning Statement

Received 1st December 2020

- Site Location Plan
- Drawing No. 03 Rev A - Existing Block Plan

Received 4th February 2021

Assessment:

In order to grant a Certificate of Lawfulness for existing use as a Storage/ Distribution (B8) with ancillary General Industrial (workshop) and Office (B2/ B1(a)/E(g)(i), sufficient evidence must be supplied to confirm that the site has been in this use continuously for a period of 10 years.

A number of invoices/ letters and quotes to/ from customers have been submitted (highlighted in red) enquiring about the services of the business/ arranging a booking. From 2016 onwards, evidence is in the form of utility bills addressed to 'The Workshop'; the site had previously been addressed 'The Garage'. Statutory Declarations have also been provided from a neighbouring resident and employee confirming the continuous use of the business for the relevant time. Aerial photographs of the site (as can be seen on Google Images) show coaches being stored on site over different years.

Due to the nature of a coach hire business, it is considered reasonable that the site has been used to store coaches (B8 use). The workshop (B2 use) and associated small office (B1(a)/ E(g)(i)) is used to repair coaches as and when needed which is also considered reasonable, and it has been confirmed that the site is not used to repair individual's private motor vehicles.

The consultation response from the Planning Enforcement team also indicates that the site was in operation as a business premises in 2003, but the investigation was closed due to sufficient information having been provided to demonstrate the use.

CONCLUSION

In the absence of the information or evidence to contradict or make the applicant's version less probable, on balance, it is considered that the premises at 357 Basingstoke Road has operated as a coach hire business (B8 - coach storage) with ancillary B2 (General Industrial - specifically the onsite workshop) and B1(a)/ E(g)(i) (Office use - specially the on site office) for a period of 10 years and is therefore immune to enforcement action. It is therefore considered a Certificate of Lawfulness for the use of the land B8 with ancillary B2 and B1(a) use should be granted.

Recommendation: GRANT certificate

1:1250 Location Map (Not to scale)

