

19 February 2024

Via Planning Portal ref. PP-12811662

Dacorum Borough Council
Planning and Regeneration
Civic Centre Marlowes
Hemel Hempstead
Herts HP1 1HH

Dear Sir / Madam

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SUBMISSION OF APPLICATION FOR CERTIFICATE OF LAWFUL DEVELOPMENT UNDER SCHEDULE 2, PART 7, CLASS H OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015 (AS AMENDED)

PROPOSED RE-ROOFING, RE-CLADDING AND OTHER MINOR ALTERATIONS TO EXISTING WAREHOUSE AT HEMEL465, BOUNDARY WAY, HEMEL HEMPSTEAD, HERTFORDSHIRE, HP2 7LF

On behalf of our client, J Murphy & Sons (“Murphy”), we hereby submit an application for a Certificate of Lawful (Proposed Use or) Development under Schedule 2, Part 7, Class H of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (“the PD Rights”) in relation to the proposed re-roofing, re-cladding and other minor alterations to the existing warehouse at Hemel465, Boundary Way, Hemel Hempstead, Herts, HP2 7LF (“the site”).

Background

The site is located in the Maylands Business Park, a designated General Employment Area, and relates to an existing warehouse which benefits from and operates within a lawful B8 land use and provides approx. 43,200 sqm of employment-generating floorspace (including ancillary office accommodation). The site is bounded by Boundary Way to the south, Buncefield Lane to the west/north, and parts of the Buncefield Oil Depot Terminal as well as two wider warehouses (DBD Group & Majestic Wine) to the east.

The site is neither statutorily nor locally listed, and not within or in close proximity to a Conservation Area.

As the Council will be aware, planning permission for the construction of the existing warehouse was originally granted in June 2005 (LPA ref. 4/00664/03/FUL). The site was subsequently damaged in the 2005 Buncefield Oil Storage Terminal explosion and repaired as set out in LPA ref. 4/02087/09/LDP (January 2010). Between 2012 and 2023, the site was occupied by Amazon as a warehouse/distribution centre and subject to several minor planning applications, as summarised in Annex 1.

The Charlotte Building
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In preparation for occupation by a new tenant, it is proposed to undertake a number of repair, maintenance and alteration works (“the proposed works”) to ensure the warehouse is fit-for-purpose in order to provide modern storage and distribution floorspace which continues to serve the local and regional economy.

Proposed Works under Schedule 2, Part 7, Class H of The Town and Country Planning (General Permitted Development) Order 2015 (as amended)

As part of the proposed works, it is necessary to undertake the following alterations to the existing warehouse:

- Re-roofing (i.e. repair and replacement of the existing roof; no increase in height or change in profile is proposed); and
- Re-cladding of the external façade of the warehouse (i.e. replacement of existing cladding with similar materials and external appearance/colouring) and, as part of this process, the removal of some existing doors/dock levellers and the provision of a number of new doors/dock levellers (as shown on the submitted plans/drawings, see Annex 2) as well as the alteration of the existing warehouse to provide a canopy at the north-eastern part of the site.

This submission seeks a Certificate of Lawful (Proposed Use or) Development to confirm that the proposed works are deemed ‘Permitted Development’ under Schedule 2, Part 7, Class H of the PD Rights.

It is our interpretation and understanding of the PD Rights that all relevant requirements, limitations and/or conditions of Class H are being met and apply to the site, and the works therefore qualify and can be undertaken as permitted development. There are no conditions attached to the original planning permission (or any subsequent permissions relating to the site) relating to the development of the warehouse that would restrict the use of PD Rights (see LPA ref. 4/00664/03/FUL). An overview of the proposed works against Schedule 2, Part 7, Class H of the PD Rights is set out in Table 1 below.

Comparison of Proposed Works against Schedule 2, Part 7, Class H of the PD Rights

Requirements, Limitations, Conditions & Interpretation of Class H	Relevance to and Compliance of Proposed Works
Permitted development	
H. The erection, extension or alteration of an industrial building or a warehouse.	Proposed works constitute alterations to an existing warehouse.
Development not permitted	
H.1 Development is not permitted by Class H if—	
(a) the gross floor space of any new building erected would exceed—	N/A – No new building proposed
(i) for a building on article 2(3) land or on a site of special scientific interest, 100 square metres;	
(ii) in any other case, would exceed 200 square metres;	
(b) the gross floor space of the original building would be exceeded by more than—	N/A – No extension increasing the gross floors space of the original building proposed.
(i) in respect of an original building or a development on article 2(3) land, 10% or 500 square metres (whichever is lesser);	Note: Proposed canopy does not meet the definition of new floorspace and provides a protection from the elements rather than new floor space.

(ii) in respect of an original building or a development on a site of special scientific interest, 25% or 1,000 square metres (whichever is the lesser);	
(iii) in any other case, 50% or 1,000 square metres (whichever is the lesser);	
(c) the height of any part of the new building erected would exceed—	N/A – No new building proposed
(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres;	
(ii) in all other cases, the height of the highest building within the curtilage of the premises or 15 metres, whichever is lower;	
(d) the height of the building as extended or altered would exceed—	The warehouse and any alterations proposed are neither within 10 metres of a boundary of the curtilage of the premises, nor exceeding the building's original height.
(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres;	
(ii) in all other cases, the height of the building being extended or altered;	
(e) any part of the development would be within 5 metres of any boundary of the curtilage of the premises;	The site boundary is greater than 5m distance from the area of the proposed works.
(f) the development would lead to a reduction in the space available for the parking or turning of vehicles; or	There is no loss of car parking or servicing area/vehicle turning area as a result of the proposed works.
(g) the development would be within the curtilage of a listed building.	N/A – The proposed works are not within the curtilage of a listed building.

Conditions

H.2 Development is permitted by Class H subject to the following conditions—

(a) the development is within the curtilage of an existing industrial building or warehouse;	The proposed works are within the curtilage of an existing warehouse (lawfully operating under Use Class B8).
(b) any building as erected, extended or altered is only to be used—	(i) – N/A;
(i) in the case of an industrial building, for the carrying out of an industrial process for the purposes of the undertaking, for research and development of products or processes, or the provision of employee facilities ancillary to the undertaking;	(ii) – The building and any alterations proposed relate to a warehouse only to be used for the storage or distribution and/or for the provision of employee facilities ancillary to the undertaking.
(ii) in the case of a warehouse, for storage or distribution for the purposes of the undertaking or the provision of employee facilities ancillary to the undertaking;	

(c) no building as erected, extended or altered is used to provide employee facilities— (i) – No employee facilities are provided other than for those present at the premises of the undertaking for the purpose of their employment. The proposed works do not alter any existing arrangements.
 (i) between 7.00pm and 6.30am, for employees other than those present at the premises of the undertaking for the purpose of their employment; or (ii) – N/A, no dangerous substances present at the premises.
 (ii) at all, if a quantity of a dangerous substance is present at the premises of the undertaking in a quantity equal to or exceeding the quantity listed in the entry for that substance in Parts 2 or 3 of Schedule 1 to the Control of Major Accident Hazards Regulations 1999(26);

(d) any new building erected is, in the case of article 2(3) land¹, constructed using materials which have a similar external appearance to those used for the existing industrial building or warehouse; and N/A – No new building proposed, and the site is not on Article 2(3) land. Nevertheless, as can be seen as part of the submission, any materials used in the re-roofing/re-cladding are similar to those used in the existing warehouse.

(e) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered. N/A – No extension proposed, and the site is not on Article 2(3) land. Nevertheless, as can be seen as part of the submission, any materials used in the re-roofing/re-cladding are similar to those used in the existing warehouse.

Interpretation

H.3 For the purposes of Class H, where 2 or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement. N/A – Site relates to a single warehouse only.

H.4 For the purposes of Class H— N/A – For the avoidance of doubt, the original building has not been constructed under Class H.
 “dangerous substance” has the meaning given in regulation 2 of the Control of Major Accident Hazards Regulations 1999;
 “employee facilities” means social, care or recreational facilities provided for employees of the undertaking, including crèche facilities provided for the children of such employees; and

¹ Schedule 1, Part 1 of the PD Rights defines Article 2(3) land as Land within—
 (a) an area designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (designation of conservation areas);
 (b) an area of outstanding natural beauty;
 (c) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981 (enhancement and protection of the natural beauty and amenity of the countryside)(a);
 (d) the Broads;
 (e) a National Park; and
 (f) a World Heritage Site.

“original building” does not include any building erected at any time under Class H.

For the avoidance of doubt, whilst the site is located within the HSE Consultation Zone (Hazardous Substance Buffer), it is not considered that this restricts the use of the PD Rights, as demonstrated by wider applications for similar types of development, as set out in Annex 1.

Note: Related alterations to existing gates/fences/enclosures within the site, i.e. cat ladder fence in the north-eastern part of the site may be undertaken under Schedule 2, Part 2, Class A of the Order referred to above.

Submission Content

This application for a Certificate of Lawful (Proposed Use or) Development is accompanied by the following documents:

- Application Forms and respective Application Fee;
- Cover Letter, prepared by Turley (this document);
- A suite of plans and drawings, prepared by GTH (see Annex 2).

We trust that the enclosed information enables you to process and validate this application without delay.

Our client and we are keen to ensure that the proposed works can be undertaken at the earliest opportunity to ensure that the existing warehouse continues to meet the operational requirements of modern storage and distribution business and can be brought back into use as soon as possible.

Please do not hesitate to contact my colleagues Pe [REDACTED] ([k](#)), [REDACTED] [REDACTED] or myself should you wish to discuss any aspects of this submission.

Yours sincerely

[REDACTED]
Associate Director

[REDACTED]
cc. Peter Lawson, Senior Director, Turley
Steve Faber, Property Director, Murphy

Annex 1: Planning History

Based on a review of the Council's online records, the site is subject to the following (recent) planning history:

Planning History Overview

LPA ref.	Proposal	Decision / Date	Commentary
21/04595/FUL	The creation of new roof access staircase to allow essential maintenance.	Granted / 21 January 2022	
21/01573/FUL	Installation of a new roof maintenance access stairs and CAT ladder	Granted / 4 June 2021	
4/00368/19/FUL	Installation of roof mounted solar pv panels and battery storage system, including associated ancillary Infrastructure	Granted / 7 June 2019	Understood this has not been implemented.
4/01984/18/FUL	Installation of roof mounted solar panels and battery storage system including associated ancillary Infrastructure	n/a	No details available on Council's online planning register.
4/01533/16/FUL	Installation of evaporative cooler plant and roof extract cowls	Granted / 4 August 2016	
4/00800/16/CON	Application for a premises licence	n/a	No details available on Council's online planning register.
4/03465/15/FUL	Construction of temporary marquee extension to existing distribution centre canteen for a period of two years	n/a	No details available on Council's online planning register.
4/03420/15/FUL	Formation of overspill extension to existing staff car park with adjustments to fence and gate details	Granted / 29 December 2015	
4/02113/15/FUL	Installation of evaporative cooler plant, condenser units and roof extract cowls	Granted / 17 July 2015	
4/03490/14/LDE	Construction of Canteen	Granted / 25 March 2015	Development under PD Rights
4/01434/13/FUL	Installation of an evaporative cooler plant and roof extract cowls	Granted / 18 October 2013	
4/01581/12/FUL	Amendment to car/hgv parking in the service yard and addition of turnstiles and bicycle shelter in the	Granted / 5 October 2012	

	entrance area to the office building		
4/01189/12/LDP	Widen link corridor by 1m.	Granted / 15 August 2012	Development under PD Rights
4/01942/11/FUL	Installation of sprinkler tanks and pump house	Granted / 6 January 2012	
4/02087/09/LDP	Maintenance and repair work	Granted / 25 January 2010	Certificate of Lawful Development for Repair Works to reinstate the development approved under the Original Planning Permission (below).
4/01709/06/FUL	Rebuilding of warehouse building with ancillary offices making good of service, parking and landscape areas	Refused / August 2007	
4/00664/03/FUL	Construction of new warehouse with ancillary offices and associated service areas and car parking	Granted / 22 June 2005	Understood to be 'the Original Planning Permission'. Note: A similar permission was also granted under LPA ref. 4/01113/02/FUL in April 2004.

Annex 2: List of Submitted Plans & Drawings

Name	Description
1008-GTH-02-ZZ-DR-A-2020-C	Office Existing North & East elevations
1008-GTH-02-ZZ-DR-A-2021-C	Office Existing South & West elevations
1008-GTH-02-ZZ-DR-A-2022-D	Office Proposed North & East Elevations
1008-GTH-02-ZZ-DR-A-2023-D	Office Proposed South & West Elevations
1008-GTH-03-ZZ-DR-A-2030-A	Existing Warehouse plan Sheet 1
1008-GTH-03-ZZ-DR-A-2031-A	Existing Warehouse plan Sheet 2
1008-GTH-03-ZZ-DR-A-2032-A	Existing Warehouse plan Sheet 3
1008-GTH-03-ZZ-DR-A-2033-A	Existing Warehouse plan Sheet 4
1008-GTH-03-ZZ-DR-A-2034-B	Existing Warehouse Ground floor key plan
1008-GTH-03-ZZ-DR-A-2035-B	Warehouse plan proposed Sheet 1
1008-GTH-03-ZZ-DR-A-2036-A	Warehouse plan proposed Sheet 2
1008-GTH-03-ZZ-DR-A-2037-A	Warehouse plan proposed Sheet 3
1008-GTH-03-ZZ-DR-A-2038-A	Warehouse plan proposed Sheet 4
1008-GTH-03-ZZ-DR-A-2039-B	Warehouse plan proposed Key plan
1008-GTH-08-ZZ-DR-A-2080-B	Canopy - Proposed plan, section & elevation
1008-GTH-ZZ-ZZ-DR-A-2001-C	Site location - Block Plan
1008-GTH-ZZ-ZZ-DR-A-2005-D	Existing context plan
1008-GTH-ZZ-ZZ-DR-A-2006-E	Proposed works context plan
1008-GTH-ZZ-ZZ-DR-A-2007-C	Existing elevations
1008-GTH-ZZ-ZZ-DR-A-2008-D	Proposed elevations