Development Management - Delegated Officer Report

Application Number: AWDM/1048/25 Recommendation – Approve

Site: 49 Dolphin Road, Shoreham-by-Sea, BN43 6PB

Proposal: Application for a Certificate of Lawfulness for an Existing use as B8 'Storage and distribution'.

Date of site visit: Not visited Assessment has been assisted using the Applicants plans; Earthlight mapping; and Google 3D of the site

Neighbours checked: Y

Additional neighbour notifications: N

Proposal, Site and Surroundings

The application relates to no. 49 Dolphin Road, Shoreham-by-Sea. Dolphin Road runs east west, and lies north of the east west railway line (Worthing to Brighton). The first section of Dolphin Road starts to the west of the application site, and there are predominantly residential properties to its north and commercial to the south. Some 500m or so from the start of the road there are commercial properties/uses on both sides of the road, and there are several offshoots of the road i.e. Dolphin Way, Evershed Way, all of which accommodate commercial/trade uses. No. 49 is off an unnamed offshoot of the east west section of Dolphin Road. The offshoot road is not a private road.

A large factory unit occupies the area close to the west of the application site and another unit to the south of the application, both are Higgidy. Many of the units within Dolphin Road, house the Higgidy company. Further to the north of no. 49 lies another unit which shows itself to be Westbourne Motors, and to the west the large unit is Veolia a waste management company.

The application as submitted:

The submitted application seeks a Certificate of Existing Lawful Use (CLUED) for the use of the site as B8 Storage and Distribution. Comprising a scaffolding business with storage of scaffolding materials and the associated ancillary vehicles together with an ancillary office and hardstanding for the storage area, and parking of the ancillary vehicles.

The application form:

- States that the use began more than 10 years before the date of the application;
- The use began, or the building works substantially completed 21.04.1998;
- There has been no material change of use of the land since the start of the use for which the certificate is sought.

The supporting Planning Statement:

- The square parcel of land measures approximately 0.07ha;
- The site has been leased for B8 purposes since 1998;
- The site is currently occupied by Amazon Access Solutions Ltd.as a scaffolding yard with ancillary office since 2020;
- Prior to this Bramber Construction Executive Pension Fund owned the site since 1997 and have leased it for B8 purposes since 1998;

The Supporting Statement (SS) puts forward 2no. planning permissions dated 1978 and 1998 and explains their relevance to the proposal.

Declaration:

The next piece of evidence within the SS is a Statutory Declaration from Bruce Douglas Williams, one of the Trustees of the Bramber Construction Executive Pension Fund, the previous owner of the site, whose knowledge of the use of the site dates to 1997.

The declaration outlines the Pension Scheme link to the land, who they granted a lease to and how long that lease continued and the use undertaken by that tenant for a 22 year period, and the business undertaken being a storage yard/scaffolding yard. This tenant was Onyx U.K. Limited who subsequently changed their name to Veolia ES (UK) Limited.

Following the 22 year lease with Onyx, the site was then leased to Amazon Access Solutions Limited as a scaffolding yard with ancillary office.

The Declaration from Bruce Douglas Williams also states that the Property has been in continuous use as a storage yard/for the storage of scaffolding equipment to this date.

The SS continues with a series of Google Earth Images over several years showing the site with the storage of vehicles on the land. These images start in 2001, moves on to 2007 then 2011, 2012, 2016, 2019, 2020, 2022, and finally 2024.

The next stage of the SS outlines the use of the site and case law etc. Points out that a Business Rates Invoice is put into evidence. Mentions relevant legislation.

The SS continues with legislation such as Section 191 of the T&CPA 1990 (as amended) and the NPPF informing what a LPA should include within a CLEUD and gives an avoidance of doubt statement that the application seeks a CLEUD to be issued for a specific use of the site and buildings identified as B8 storage and distribution, comprising hardstanding and an ancillary office.

The final pages of the SS submit copies of the permissions cited within the document; and copy of the statutory declaration with its associated rates document and google earth images; land registry plan;

Response to submitted evidence:

The 1978 permission was for a Temporary covered racking to east of site. However, this permission is not relevant to the application given that the use was temporary and in any case was over 30 years too early to be a consideration as no evidence to fill the gap has been put forward.

The 1998 permission relates to an adjoining site, with the only tie being a site plan on that application which shows the application site ergo it is not germane to the proposed CLEUD.

A further application from 1979 was also put forward on a nearby site for the erection of six storage buildings. This 1979 permission is not relevant to the current application for the same reasons as above.

The Google Earth images are good evidence as they show the storage, the office and the hardstanding area over the years. The final photograph of the scaffolding yard in operation was submitted as an exhibit with the Statutory Declaration in 2025 is also good evidence.

Following on from the above, the Case Officer of the application found the following planning permission and forwarded it to the applicant for their records which allowed them to submit it as evidence for their case:-

Relevant Planning History

SU/7/62 Office block and Depot **Approved 12.03.1962**

This planning permission is good evidence as it supplies the start date that the use was approved by the Local Planning Authority.

Further information relating to this use etc. has been located on the historic planning documents which show the plans of the ‘office block’ which is a brick built, single storey, flat roof structure. It also shows its positioning on the site and the access into the site. The plan and block plan are stamped up on the 23rd May 1962. All is as is now.

Council’s Legal Assessment

The Council’s lawyer has checked the application and is satisfied that on the balance of probabilities that the CLEUD ought to be granted.

Looking at the applicant’s supporting statement, he is not persuaded by the information about the position pre-1998, but he is satisfied that the B8 use has been in place since 1998. The statutory declaration from Mr Williams is good evidence to support this and confirms the continuous use since then.

Therefore, in the absence of evidence to the contrary there is no good reason to refuse the application.

Planning Assessment

From much of the evidence submitted, which includes the 1962 planning permission, the Statutory Declaration, Google maps over the years and the Councils legal response, where they have interrogated the documents submitted, it has shown that, on the balance of probability, the use and operation have been in existence for at least 10 years, and therefore in the absence of evidence to the contrary the Certificate should be granted.

Recommendation

Certificate of Lawfulness be granted for the following reason:

The existing use of B8 Storage and Distribution relating to the storage of scaffolding with hardstanding and an ancillary office as shown on the submitted location and notated block plan, has on the balance of probability, taken place for at least 10 years.

Case Officer: Eve Hearsey Date: 17.10.2025

Authorised by: Peter Barnett Date: 20 October 2025