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To Whom It May Concern

Certificate of lawfulness for proposed use at:
Units D6-10, 26 Dolphin Road, Shoreham-by-Sea, BN43 6PB

Introduction

This statement accompanies an application for a certificate of lawfulness for a proposed use at units D6-10, 26 Dolphin Road, Shoreham-by-Sea.

The proposed use would be for the storage, distribution and manufacturing of nail vanish, operated by a company known as 'Daisy's Nail Company'. Daisy's Nail Company are negotiating a lease on units D6-10, and seek confirmation via a certificate of lawful use that they do not require a change of use to operate from the unit.

The unit benefits from planning permission for B1, B2 and B8 uses granted by planning permission ADC/0041/07. The units have not been completed yet and therefore have not been occupied. As the Local Authority will be aware the Use Class Order was updated in September 2020. This means that B1 uses are now referred to as Class E(c) and Class E(g) uses. Class B2 and B8 uses are still referred to as such.

The site & planning history

The site is located on the corner of Dolphin Way and Dolphin Road in Shoreham. The immediately surrounding area comprises industrial units, with residential development beyond.

The site was formally a factory, then received planning permission in November 2007 for the following development, application reference ADC/0041/07:

Redevelopment of factory with block of 10 units for business, general industrial and storage uses (Classes B1, B2 and B8) with 52 car parking spaces and access/loading areas.(Outline with layout and access details)

It is understood that the permission has been implemented in accordance with the terms of the consent. The approximate application site boundary, and the surrounding area, is shown on the plan below:



Above: Approximate boundary of application ADC/0041/07

The consent was granted subject to 19 conditions. None of the conditions added further information regarding the approved use classes listed in the development description. None of the approved plans allocated specific uses to any part of the site or proposed units.

The application forms described the development as being for "*B1, B2 & B8*" uses in the proposed development description, and in specifying the quantum of proposed floorspace, the application forms allocated all floorspace as being "*industrial*" floorspace (see extract below).

Details of Floor Areas and Uses - please specify in square metres

	Existing Floor Space or use (if any)	Proposed New Floor Space or use	Total Floor Space (Allow for any space lost)
What is the amount of industrial floor space?	1381		1891

Above: Extract from application forms for application ADC/0041/07

The officer's report stated the following regarding the approved uses:

> The proposal is to demolish the existing factory (1,341sqm) and erect a block of 10 units for mixed Class B1 'business', B2 'general industrial' and B8 'storage and distribution' uses. The total floorspace would be 1,891sqm, comprising 5 units of 155sqm, 4 of 203sqm and one of 302sqm.

The report states the consent is for a 'mix' of uses, and again does not specify the extent or location of each use.

Use Class Order

The planning Use Class Order was updated in September 2020. Prior to September 2020, 'B' Class uses (B1, B2 and B8) were the 'industrial' use classes. Following September 2020, use classes B2 (general industrial) and B8 (storage and distribution) were retained within the revised use class order. A new 'E' use class was created, which includes 'commercial' uses.

The former use class B1 included the following subsections:

- B1(a) – offices (aside from professional services which were A2)
- B1(b) – research and development
- B1(c) - light industrial

These uses are now within use class E, as the following subsections:

- E(c) – financial, professional, or other appropriate commercial or business services (offices)
- E(g)(i) offices to carry out operational or administrative functions
- E(g)(ii) research and development
- E(g)(iii) Industrial processes

Therefore former B1 uses are now described as either E(c) or E(g) uses. This means, under the updated use class order, application ADC/0041/07 grants planning permission for E(c), E(g), B2 and B8 uses. This application will therefore refer to the uses as such.

Legal context

Section 192 of the Town and Country Planning Act 1990 (as amended) provides for allowing applications for a certificate of lawful use to be made. The relevant section is below:

192 - Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land, would be lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Proposed use

Daisy's Nail Company would occupy the site to make, store and distribute their product – nail vanish. There is no heavy industrial machinery required to make the product. All making of the product will take place inside the building. Therefore any potential impacts such as noise or pollution, which are required to make the product will be contained inside the building, or extracted safely via an approved ventilation strategy (which would be subject to a separate consent as required), and will not have any material impact on the amenity of surrounding buildings. This means the use is an E(g)(iii) use with regard to the Use Class Order as updated in September 2020.

The storage and distribution of the product will also take place within / from within the unit. This is a B8 use, which would be carried out in accordance with the terms of the original planning permission.

Conclusions

Application ADC/0041/07 grants planning permission for E(c), E(g), B2 and B8 uses at 26 Dolphin Road, Shoreham-by-Sea. Daisy's Nail Company would operate at 26 Dolphin Road in class E(g)(iii) and B8 uses, as described in this letter. The planning history establishes that the consent included the allowance for the units to be occupied as a mix of the approved uses. The proposed use is therefore lawful.

If you require further information please contact Julia Mitchell on 01273 413700 / Julia.mitchell@lewisplanning.co.uk.

Yours sincerely

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