

Existing Use (Lawful Development Certificate) Report

Application Ref: 2021/1064
Address: Unit 21, Claycliffe Business Park, Cannon Way, Barugh Green, Barnsley, S75 1JU
Neighbour Representations: None
Property Description:

The site is a commercial premises located on Claycliffe Business Park within the suburb of Barugh Green within Urban Barnsley. Unit 21 is the westernmost in a range of utilitarian buildings which span from east to west and face onto a car park to the south between the building and Barugh Green Road. The unit features a normal shopfront on the western site of its southern elevation with a large roller shutter door on the right hand side when facing north. The building has a shallow dual-pitch and is clad in grey metal panels and consists of two floors.



Development Description:

The application for a lawful development certificate has been submitted under Section 191 of the Town and Country Planning Act to confirm an established/existing use in accordance with the 10 year time limit for immunity from planning enforcement. The units erected under permission 2005/2025 were intended for use by businesses operating under use classes, B1 – Offices, B2 – Industrial and B8 – Storage and Distribution. The unit is currently operating as a retail store for the on-site purchase of goods relating to domestic pets and animals and evidence has been submitted to establish that this operation is lawful. The use on site is distinguished from that of a trade sales unit in that the products are sold inclusive of VAT to the general public.

Local Plan Designation: Urban Fabric
Conservation Area: No
Relevant History: 2005/2025 – Erection of B1, B2, B8 and trade sales industrial units and warehouses – Approved with Conditions

Assessment:

The application submission documents have been reviewed by the LPA's legal officer who had the following comments in respect of the submitted evidence (including dated newspaper advertisement, business rate bills and photographic imagery):

The evidence is to be tested on a balance of probability (whether it is more probable than not) The quote from the submitted statement sets out the legal position correctly;

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if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

It seems pretty clear that the use is as a retail business now and the Barnsley Chronicle advertisement indicates that the use was in place in 2009. I take it we have no evidence to contradict what we are being told so the only issue is whether the evidence submitted is sufficiently precise and unambiguous. I think it would be worth a visit to the premises to verify that the photos relate to the position in these premises (It's not a mixed use part retail part wholesale?). I was wondering whether we might ask for a statutory declaration from the shop owner/operator but in reality I don't think that would produce anything contrary to the evidence produced. It appears to me that the evidence we have (subject to a site visit) is probably sufficient to grant a LDC.

Given that the case officer site visit confirms that the layout and location of the pet store is as intimated in the submitted evidence, that the evidence indicates that it is highly probable that the business has been operating for a period in excess of 10 years and that the LPA has no evidence to set out the contrary, the application for an existing lawful development certificate for the Pet Store at Unit 21 in Claycliffe Business Park is granted.

The development is determined to be 'established development' immune from planning control in line with the stipulation within 171B (3) of the Town and Country Planning Act (As Amended) in that the breach of planning control has been operating for a period in excess of 10 years from the date of the beginning of the breach.

Recommendation: Certificate Granted