
Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 April 2021

Appeal Ref: APP/M5450/X/20/3263633

**Edward J Wood & Co (Printers) Ltd, 31-37 Rosslyn Crescent, Harrow
HA1 2SA**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mesari Group against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/2209/20, dated 30 June 2020, was refused by notice dated 8 October 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is a printing and box manufacturer (Use Class B1c).
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Main Issues

2. The main issues are whether, on the balance of probabilities, the use of the property is for light industrial purposes (Class B1c) and, if so, whether that use has subsisted over a substantially uninterrupted basis for at least 10 years prior to the date of the LDC application.

Reasons

3. The Council states that it holds records showing the use of the building falls within Use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (the UCO) but no evidence of these has been provided. Moreover, the Council asserts that the Use Class Gazetteer also shows the current use to be B2. However, no extracts of the Gazetteer have been provided either. Nevertheless, in my view, whilst a Gazetteer seeks to classify uses, that assessment could only be based on a generic approach to land uses which would not take account of the reality of an actual use occurring and considering the circumstances of that based on first hand evidence. I therefore attach very limited weight to the Council's evidence.
4. In this case, the appeal building is hemmed in by residential properties and associated back gardens to the south and west. There is no evidence from the

Council to show that the printing and box manufacturing business has caused any adverse amenity issues, such as undue noise or odour disturbance, to the residential occupation of the surrounding dwellings. The existing building does not have any external flues or ventilation systems due to the light industrial work which takes place internally. Furthermore, the appellant is not aware of any environmental health complaints associated with the site and a desk-based search on the Harrow website has not returned any evidence to the contrary.

5. The UCO defines Use Class B1(c) as any industrial process "*being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit*". Given the closeness of the commercial operation to houses and the significant length of time that the business has operated from the site, which I deal with in more detail below, this is very strong evidence that the use applied for has operated in its residential surroundings without detriment to the amenity of the area. As such, as a matter of fact and degree, the appellant has discharged the burden upon them to show that on the balance of probability the use of the site falls within Class B1(c) of the UCO.
6. The use of the premises for the design, manufacture and printing of cardboard packaging commenced in 1931. That was initially under the terms of the building being leased which changed around 1956 when the company England Brothers purchased the premises. The change from leasehold to freehold does not show that the original and continuing use materially altered or stopped as a result. There is also nothing to dispute the evidence from the Managing Director of England Bros. & Co. (Printers) Ltd that confirms this background and over the time from 1931 the use has subsisted. Moreover, the Council does not challenge that one of its own documents "Harrow Industrial Stories" published in 2013 refers to the premises being there for 83 years and is described as 'workshop – other' designing, manufacturing and printing cardboard packaging.
7. In the absence of any telling evidence to the contrary, as a matter of fact and degree, I find the appellant's evidence sufficiently clear and unambiguous to show that, on the balance of probability, the use of the site as a printing and box manufacturer subsisted for a substantially uninterrupted basis for much more than the required 10 years. As such, under s191(2) of the 1990 Act, the use is lawful.

Conclusion

8. Given that the use of the land falls within Class B1(c) of the UCO and that use has subsisted for more than the required ten years, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a printing and box manufacturer (Use Class B1c) was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Gareth Symons

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 30 June 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use of the land for Class B1(c) of the Town and Country Planning (Use Classes) Order 1987 has subsisted for more than ten years prior to the date of the LDC application and consequently, no enforcement action may be taken in respect of the use. Therefore, under s191(2) of the Town and Country Planning Act 1990 as amended, the use is lawful.

Signed

Gareth Symons

Inspector

Date 6 April 2021

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First Schedule

A printing and box manufacturer (Use Class B1c).

Second Schedule

Land at Edward J Wood & Co (Printers) Ltd, 31-37 Rosslyn Crescent, Harrow
HA1 2SA

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 6 April 2021

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Scale: Do not scale.

