

**WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL**  
**DELEGATED REPORT**

<b>APPLICATION No:</b>	<b>S6/2011/2770/LUP</b>
<b>APPLICATION Site:</b>	<b>Arqiva Transmitting Station</b>

**NOTATION:**

The site lies within the Green Belt as designated in the Welwyn Hatfield District Plan 2005.

**DESCRIPTION OF SITE:**

The application site is located on the Great North Road, and is accessed by a long driveway with security gates.

The main building on the site is two storey with a stone clad front facade and is finished in facing brickwork behind this.

Towards the rear of this main building are three further outbuildings which are of a later date and are single storey.

To the side and front of the main building are areas allocated for parking.

Beyond the redline of the application site, but as part of the wider site there are the main four radio towers which are a landmark feature in this locality and also a number of satellite dishes.

**DESCRIPTION OF PROPOSAL:**

The application seeks the issue of a Certificate of Lawfulness for a proposed use for the proposed use of part or all of the existing equipment buildings for a data centre that will be connected near continuously to a live electronic communications network for the purpose of storing, processing, updating, transmitting and receiving data by electronic means.

**PLANNING HISTORY:**

There is a long planning history to this site and more recent applications are:

S6/2001/0379/FP - Installation of two microwave antenna dishes on existing tower  
W 17/04/2009

S6/2004/1751/FP - Extension to existing car parking area  
W 04/02/2005

S6/2003/0022/FP - Construction of earth mounding (upto 2.5m in height) and installation of close boarded fencing (2m in height) in north western and south eastern sections of the site A(G) 16/06/2003

S6/2003/0287/FP - Installation of two antennas on existing mast at height of 16.5 metres with associated telecommunications equipment to be housed within existing building A(G) 07/04/2003

S6/2001/1119/FP - Installation of four dipole antennas on existing telecommunications mast A(G) 16/09/2002

S6/2002/0191/FP - Installation of two 0.6m dishes on existing tower and new equipment cabin to house digital radio equipment A(G) 25/03/2002

S6/2001/0308/DT - Prior approval to siting of replacement equipment cabin adjacent to 45 metre tower A(G) 02/04/2001

S6/1998/1053/FP - Installation of electricity sub-station adjacent to eastern boundary A(G) 04/01/1999

**SUMMARY OF POLICIES:**

N/A

**CONSULTATIONS:**

N/A

**TOWN/PARISH COUNCIL COMMENTS:**

None received,

**REPRESENTATIONS:**

None.

**DISCUSSION:**

The application seeks a certificate of lawfulness for the proposed use of the site for modern data centre operations, on the grounds that it is of the same nature and scale of use as the existing *sui generis* use as current on this site and it is therefore not a material change of use.

The Town and Country Planning (Use Classes) Order 1987 is a Statutory Instrument which categorizes different uses of land and specifies classes for the purposes of section 55(2)(f) of the Town and Country Planning Act 1990, which provides that a change of use of a building or other land does not involve

development for the purposes of the Act if the new use and the former use are both within the same specified class.

As the lawful use of the site or proposed use of the site does not fall within permitted changes of the class order, it is necessary to consider whether there has been a material change of use of the land for the purposes of section (55)(1) of the Town and Country Planning Act 1990.

The 1987 order has since been amended, in 1991, 1992, 2005 and 2006, and whilst this is applicable to England only, circular 03/2005 paragraph 13 and 14 states that:

- 13. Where the primary use of land or premises is a mixture of different uses, such mixed use does not fall into any of the classes set out in the amended Order. The use will therefore be *sui generis*.

- 14. Planning Permission is not always required for the change of use from one mixed use to another. The question is whether or not the change of use is material, in planning terms. Where the change of use does not amount to a material change, there will be no development, and no need to obtain planning permission.

The 2005 updating of the Use Classes Order in England, did not result in the inclusion of data centres within any of the defined use classes, including B1 or B8.

The data centre is therefore regarded as a *sui generis* use.

Furthermore, the evidence submitted in the covering letter with the application information outlines the similarities between different electronic communication networks, particularly the radio broadcast network and modern data centres.

These are as follows:

electronic communications equipment is set out in racks within buildings in temperature controlled rooms, with internal and external cooling equipment;

the electronic communications equipment is constantly monitored by a combination of on and off site monitoring;

there is processing of data signals and information that is continuously transmitted and received;

there are requirements for storage, both physical and electronic;

sites have low manning levels and therefore limited parking and circulation requirements;

deliveries and large vehicle movements tend to be in low frequency;

ancillary office and welfare facilities for permanent and visiting staff and other personnel;

The application is in regards to the use of the site and so no operational development is proposed. The applicant states in their cover letter that:

‘The physical differences between a radio broadcast site and a data centre do not therefore require them to be placed into different categories for the purpose of use.

Thus view is accepted and whilst there will be changes to the machinery within the building if the data centre use is implemented, this will not constitute operational development.

If further changes to the building are required for use as a data centre which are deemed to be operational development, then these will require a further planning application.

One the evidence submitted and from the site inspection, there is no clear reason why the proposed use cannot be implemented within the constraints of the current buildings.

In regards to the potential of greater intensification of use of the site, again on the evidence and discussions with the applicant there is a greater likelihood that the use of the site may even decrease with fewer personnel required to be present on site.

All this evidence adds further weight to the conclusion that the proposed use will not result in a material change of use.

### **CONCLUSION:**

Taking into account the evidence submitted with the application, the planning history and from visiting the site it is determined that the close similarities of existing the operational use and proposed use would not result in a material change of use.

Furthermore, there will be no resultant material change of use either to the character and appearance of the application site from the proposed use compared to that of the existing operations.

It is therefore recommended that a Certificate of Lawfulness for a proposed use for the proposed use of part or all of the existing equipment buildings for a data centre that will be connected near continuously to a live electronic communications network for the purpose of storing, processing, updating, transmitting and receiving data by electronic means is granted

### **RECOMMENDATION: GRANT CERTIFICATE & REASON:**

1. The existing lawful use of the site is of electronic communications, which is ‘sui generis’ as it does not fall within any defined class specified in an order under Section 55 (2) (f) of the Town and Country Planning Act 1990,

namely the Town and Country Planning (Uses Classes) Order 1987. From the information submitted the proposed use as a data centre is also an electronic communication use in the same 'sui generis' category and so no material change of use will occur.

**FIRST SCHEDULE:**

The use of part or all of the existing equipment buildings for a data centre that will be connected near continuously to a live electronic communications network for the purpose of storing, processing, updating, transmitting and receiving data by electronic means.

**SECOND SCHEDULE;**

Arqiva Ltd Transmitting Station, Great North Road, Brookmans Park, Hatfield, AL9 6NE

**APPROVED DRAWING NUMBERS:**

140237-00-010-ML001 Rev 1.A (Site Location Plan)

**Signature of author..... Date.....**