

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2021/2123/LAWP
Location: Aquarius House Bessemer Road Welwyn Garden City AL7 1HH
Proposal: Certificate of lawfulness for installation of mezzanine
Officer: Ms Emily Stainer

Recommendation: Granted

6/2021/2123/LAWP

Context	
Application Description	This application seeks a certificate of lawfulness for a mezzanine floor.
Relevant Planning History	<p>Application Number: C6/1985/0028/ Decision: Granted Decision Date: 15 March 1985 Proposal: New industrial building with ancillary offices</p> <p>Application Number: C6/1987/0832/FP Decision: Granted Decision Date: 20 November 1987 Proposal: Erection of a warehouse in association with general industrial (class B2) premises</p> <p>Application Number: N6/1998/0564/FP Decision: Approval Subject to s106 Decision Date: 30 October 1998 Proposal: Demolition of single storey warehouse, part demolition of single storey factory and erection of B2/B8 building car parking and landscaping</p> <p>Application Number: N6/2002/1066/FP Decision: Granted Decision Date: 16 September 2002 Proposal: Demolition of existing warehouse buildings and erection of two B8 (warehouse distribution) units comprising of 2415sqm with ancillary offices and car parking.</p> <p>Application Number: 6/2016/1481/FULL Decision: Granted Decision Date: 5 January 2017 Proposal: Construction of a car park to provide 37 car parking spaces.</p> <p>Application Number: 6/2021/0973/FULL Decision: Granted Decision Date: 05 July 2021 Proposal: New external windows to the north and west elevations</p>

	and the installation of a condenser unit
<p>The main issues are:</p> <p>Whether the proposed mezzanine floor constitutes development within the meaning of Section 55 of the Town and Country Planning Act 1990</p>	
<p>Discussion</p>	
<p>Section 55 (2) of the Town & Country Planning Act 1990 provides that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—</p> <p><i>(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—</i></p> <p><i>(i) affect only the interior of the building, or</i></p> <p><i>(ii) do not materially affect the external appearance of the building,</i></p> <p><i>and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground.</i></p> <p>Section 44 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) states that:</p> <p><i>(1) The amount specified under section 55(2A) of the 1990 Act (meaning of “development” and “new development”) is 200 square metres.</i></p> <p><i>(2) The circumstances in which section 55(2) of the 1990 Act does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the floor space of the building by more than 200 square metres are that the building is used for the retail sale of goods other than hot food.</i></p> <p><i>(3) In paragraph (2), the reference to a building used for the retail sale of goods includes a building used as a retail warehouse club, being a retail club where goods are sold, or displayed for sale, only to members who are members of that club.</i></p> <p>Therefore, any internal operations which have the effect of increasing the gross floor space of a retail building by more than 200m² constitutes development and planning permission must be sought from the Local Planning Authority (LPA). This application seeks confirmation that the additional 207.53sqm of internal floor area does not require planning permission.</p> <p>The application building was originally approved under application N6/2002/1066/FP which was an application for two B8 distribution buildings with ancillary offices and car parking. The building in question is Unit A on the approved plans for that application. Therefore, the building does not have permission as a retail use and the proposed mezzanine floor is not classed as development. Historic planning permissions for this site have also been examined and do not appear to have any restrictions on the insertion of mezzanine floor space or any additional floor space within the building.</p>	
<p>Conclusion</p> <p>For the above reasons, it is viewed that the proposed internal mezzanine floor does not</p>	

constitute development within the meaning of Section 55 of the Town and Country Planning Act 1990. It is therefore considered that permission is not required for the proposed internal works.

Conditions:

1. The proposed works do not constitute 'development' as set out in Section 55 of the Town and Country Planning Act 1990. Therefore the works do not require planning application and this application is therefore approved.

DRAWING NUMBERS

2. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
200721_198 _LOCATION	D	Location plan	14 July 2021
200721_100 _XX_EX_GA	A	Existing floor plans	14 July 2021
200721_205 _XX_PR_AP	B	Proposed floor and elevation plans	14 July 2021
200721_199 _PR_SITE	D	Site Plan	14 July 2021

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

Determined By:

Mr Isaac Liu
10 September 2021