



Officer Report

Application Number:	HGY/2026/0276
Application Type:	Lawful development: Existing use
Address:	International House, Tariff Road, Tottenham, London, N17 0DY
Proposal:	Certificate of lawfulness: existing interim industrial yard use (Use Class B2/B8) and siting of temporary portacabins.
Case Officer:	Eunice Huang
Valid Date:	02/02/2026
Applicant:	6
Agent:	see company name SM Planning

RECOMMENDATION

Refuse

1. PLANNING & ENFORCEMENT HISTORY

The relevant planning history is as follows:

- HGY/2024/1798

Address: International House, Tariff Road, Tottenham, London, N17 0DY

Proposal: Demolition of the existing industrial buildings and the erection of a new four-storey building of Use Class B2 with ancillary offices and an external scaffolding storage yard (Use Class B8) with associated parking and landscaping.

Decision: Pending - Committee resolved to grant planning permission subject to conditions and informatives and the completion of a legal agreement to secure obligations set out in Heads of Terms on 4 March 2025.

2. REPRESENTATIONS

Planning Practice Guidance (PPG) on Lawful Development Certificates, sets out that:

“There is no statutory requirement to consult third parties. It may, however, be reasonable for a Local Planning Authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.” (Paragraph: 008 Reference ID: 17c-008-2014030).

No representations have been received.

RELEVANT PLANNING LEGISLATION

The application has been made under section 191 of the Town and Country Planning Act 1990 and relevant amendments. This is not a planning application but instead the applicant seeks confirmation that the existing development is lawful. The Certificate is sought to establish the existing interim industrial yard use (Use Class B2/B8) is lawful, as is the siting of temporary portacabins.

Town and Country Planning Act 1990

Section 191 of the Town and Country Planning Act 1990 (as amended by section 10 of the Planning and Compensation Act 1991) states that:

"If any person wishes to ascertain whether any existing use of buildings or other land is lawful ...he may make an application for the purpose to the Local Planning Authority specifying the land and describing the use ... For the purposes of this Act uses ... are lawful at any time if –

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

If, on an application under this section, the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application of the use, described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

National Planning Practice Guidance (PPG)

National Planning Policy Guidance issued by the Government in relation to Lawful Development Certificates explains the process for obtaining a lawful development certificate for existing or proposed use.

In this case, the Local Planning Authority is requested to grant a certificate confirming that: "(a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990" Paragraph 001 Reference ID: 17c-001-20140306.

Paragraph: 009 Reference ID: 17c-009-20140306 of the PPG indicates:

"A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process."

As such, the impact of the proposed development on the neighbouring amenity or the character of the area cannot be taken into consideration for the purpose of this submission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the PPG indicates:

"The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, 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."

3. EVALUATION

Section 191 of the Act indicates that the burden of proof lies with the applicant, but the relevant test is 'the balance of probability'. Local Planning Authorities (LPAs) are advised that (unless the applicant's evidence is imprecise or ambiguous, or the LPA has evidence of its own which contradicts or undermines the applicant's version of events), a certificate should be issued.

In this case, a Certificate is sought on the grounds that the previous use of the site falls within Use Classes B2 (General Industrial) and B8 (Storage and Distribution). The Certificate is also sought to establish that the existing use of the site falls within the B2/B8 Use Classes:

- Herts Heritage's headquarters and industrial operations; and
- Associated scaffolding storage for its sister company, Pride.

Applicant's evidence

The applicant's statement highlights the following as evidence:

"...The long-established use of the site for industrial purposes, including the former bath manufacturer which utilised the existing industrial / warehouse buildings and the open-air storage yard. This lawful established use is confirmed within the committee report for the comprehensive redevelopment (ref: HGY/2024/1789).

The committee report for HGY/2024/1789 does describe the previous use of the site as a bath manufacturer with a storage yard. It is also accepted that the design of the existing building and site, within the industrial character of the area, suggests that industrial uses were likely established on the site. However, the applicant has not otherwise submitted evidence to demonstrate that the previous uses specifically fall under both Use Classes B2 (General Industrial) and B8 (Storage and Distribution).

Class I – *industrial conversions*, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 does allow for the change of use of buildings from B2 to B8, but there are restrictions on the floor space to a maximum 500m². It is not clear if this provision applies to this development, particularly as the existing floor space is calculated to be greater than 500m².

For the purposes of this Certificate of Lawfulness application, the applicant should submit evidence to demonstrate that the previous use of the site is unambiguous.

As for the portacabins - It is understood that two stacked portacabins have been placed on site. The applicant's statement relies upon an assessment against Section 55 of the Town and Country Planning Act (1990) to argue that the portacabins do not constitute building operations for the following reasons:

- the portacabins are not physically attached to the land;
- they have no foundations and rely on their own weight;
- they are temporary in duration; and
- they are readily removable without engineering works.

The Judgement in *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd [1949]* identified 3 primary factors as being relevant to the question of what was a building under the Act. These were size; permanence, and; physical attachment. This approach was upheld under *Barvis Ltd v Secretary of State for the Environment [1971]* and *Skerrits of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions and Harrow LBC (No.2) [2000]*.

The portacabins are of a considerable size and scale that suggest a requirement of assembly on site. It is understood that the portacabins were craned into positioned on the site. However, the stacked arrangement of the portacabins with external stair components, and the inclusion of electricity and water supply, highlight a degree of assembly on site. The portacabins would also have

a permanence of character, being retained on site for an extended period, with no limit to the length of time. It was suggested by the applicants that they would accept a two year limit for the retention of the portacabins. However, as established in *Skerritts*, the ongoing presence of the structures, while not everlasting, would have the effect of permanence. The portacabins would therefore be considered to result in a material change to the site that is not temporary. The judgement in *Cheshire County Council v Woodward [1962]* holds that although a structure may not be physically attached to the ground, it is not determinative of whether a building operation was involved. The portacabins would therefore constitute material development, requiring planning permission.

4. RECOMMENDATION

Refuse the requested Certificate of Lawfulness under section 191 of Town and Country Planning Act 1990.

From the documentation and evidence provided, the Local Planning Authority is not satisfied that existing use at International House, Tariff Road, Tottenham, London, N17 falls under Use Class B2/B8 and that the erection of the portacabins is lawful.

Refusal Reasons:

Insufficient evidence has been provided to allow the Local Planning Authority to determine that on the balance of probabilities, under the terms of Section 191 of the Town and Country Planning Act 1990, the previous use of property falls under Use Class B2/B8. The development therefore has not been established to be lawful.

The siting of portacabins on the property constitute development under Section 55 of the Town and Country Planning Act (1990). The existing portacabins on the site are therefore considered unlawful development.