

DELEGATED ASSESSMENT

Application No: PA/2019/966

Date: 24/07/2019

Proposal: Application for a Lawful Development Certificate for an existing use of four blast freezers to be retained

Location: Phase 6, Cupola Way, Scunthorpe

Applicant: Rick Bestwick (North) Ltd

Officer: Scott Jackson

CONSULTATIONS

Legal Services: The Application relates to the installation of blast freezers without permission.

The agent points to the fact that they have been in place in excess of four years therefore relies on Town and Country Planning Act 1990 S171 (B)1

“Where there has been a breach of planning control consisting in the carrying out without planning permission of building engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed”.

Information has been supplied from Blue Cube confirming that they were delivered in 2012. Replacements were delivered in 2013.

It is for the applicant to prove the case and in the absence of any evidence of our own, or evidence from others to contradict the applicant's evidence or make it less than probable, there is no good reason to refuse the application if the statutory test has been met. We have to be satisfied that the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'.

It appears that independent evidence supports the dates of installation therefore if you are of a similar view and unless you have any evidence to contradict the applicants evidence in the application form or have any doubts in your planning capacity with regards to the applications accuracy I would suggest that **the statutory test has been met based on the evidence put before me.**

A letter has been received from a member of the public objecting to the development on noise disturbance grounds.

MATERIAL CONSIDERATIONS

The applicant is seeking a certificate of lawfulness for the existing use for the retention of four blast freezers.

The onus is on the part of the applicant to demonstrate that the four blast freezers have been in-situ at the site for a period of four years. The supporting evidence submitted with the planning application includes a supporting statement with the following information:

- The application form;
- Plans;
- Letter dated 31st May 2019 from Gerald Eve LLP;
- Installation list from Rick Bestwick North;
- Letter dated 28 May 2019 confirming installation from Blue Cube and invoices.

In this case the documentation provided by the applicant and taking into account the legal advice it is considered that the independent evidence supports the dates of installation and the statutory test has been met based on the evidence put before the local planning authority. It is considered that the Local Planning Authority is satisfied that a Certificate of Lawfulness should be granted.

RECOMMENDATION: Grant the Lawful Development Certificate