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09 September 2024

Dear Sir / Madam,

**UNIT A, PENGARNDDU INDUSTRIAL ESTATE, DOWLAIS CF48 2TA
SECTION 192(1)(A) OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) & TOWN AND
COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES) ORDER 2012
APPLICATION TO CERTIFY THE PROPOSED OCCUPATION OF THE FLOORSPACE AT UNIT A BY
DUNELM WITHIN CLASS A1 IS LAWFUL**

On behalf of our client, Dunelm (Soft Furnishings) Limited (the 'Applicant'), we apply for a Certificate of Lawfulness of Proposed Use or Development ('CLOPUD'), pursuant to Section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) (the 'Act'), to certify that the proposed use occupation of the floorspace at Unit A, Pengarnddu Industrial Estate, by Dunelm within Class A1, would be lawful.

This application follows a pre-app response (Ref: PA/24/0027), received on 20 August 2024, where officers of the Council concluded that the occupation of the Site by Dunelm would not require planning permission. The response confirmed that should the Applicant wish to have formal confirmation via a legally binding decision, a CLOPUD application should be submitted.

In accordance with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, the documents which comprise the application include the following:

- Application Cover Letter dated 09 September 2024 (this letter);
- Application Forms and Certificates signed and dated 09 September 2024;
- Site Location Plan;
- Planning Permission Ref: 52860831;
- Planning Permission Ref: 52870845; and
- Pre-application response from Merthyr Tydfil County Borough Council, dated 20 August 2024.

The requisite application fee of £230.00 has been paid via the Council's online payment system. The application has been submitted via the Planning Portal with the Reference PP-13384580.

The application fee adopted is that applicable to a traditional planning application for a change of use which is the most appropriate fee category.

APPLICATION SITE

The Site comprises Unit A, Pengarnddu Industrial Estate in Dowlais. It is currently occupied by Poundstretcher who have traded from the premises since 2016.

To the north and west of Unit A is a 100+ space car parking area, as well as a dedicated service yard to the south east. The Site benefits from a close proximity to the A465 (Heads of the Valleys Road), which provides connections to the east to the M50 and to the west to Swansea via Junction 43 of the M4.

The Site is located approximately 4.8 km to the north east of Merthyr Tydfil Town Centre. It is located within an established retail and industrial location, with nearby occupiers including Asda Foodstore, B&M, Lidl, Tenneco Walker and St Merryn Foods.

The full extent of the Site is detailed on the submitted Site Location Plan.

RELEVANT PLANNING HISTORY

On 16 January 1987, planning permission was granted for the “*Construction of 1 No. Industrial Unit and 2 No. retail warehouses, with associated car parking*” (Ref: 52860831) (the ‘January 1987 Permission’). The January 1987 Permission was granted subject to 6 no. conditions.

Condition 1 relates to the use of the approved buildings and states as follows:

This approval relates strictly to the uses applied for viz: 1 No. DIY store (35,000 sq. ft.) 1 No. Retail furniture warehouse (40,000 sq. ft.) and 1 No. industrial unit (20,000 sq. ft) – Use Class III/IV and no other retail or other use.

On 16 October 1987, planning permission was granted for the “*Erection of D.I.Y retail warehouse unit (3,250 sq. m)*” (Ref: 52870845) (the ‘October 1987 Permission’).

No conditions were imposed on the October 1987 Permission.

The decision notices for both the January 1987 Permission and October 1987 Permission has been submitted in support of this application.

The pre app response referred to below confirms that the Council considers the October 1987 Permission to be the prevailing permission for the Site, and thus, the unit benefits from unrestricted Class A1 use.

REQUEST FOR PRE-APPLICATION ADVICE

On 8 July 2024, Montagu Evans, on behalf of the Applicant, submitted a request for pre-application advice in respect of the proposed occupation of Unit A by Dunelm.

On 20 August 2024, officers of the Council provided a formal response (Ref: PA/24/0027), which has been submitted in support of this application. Within the response, the uses / businesses that have historically occupied the unit are set out, confirming that the unit has been in use for retail purposes since at least April 2011 when it was occupied by No Frills Superstore. The Officer confirms the following in the response:

“It would appear that having reviewed the use of the unit since April 2011, its use for retail purposes would be acceptable.”

The response goes on to conclude that the occupation of the Site by Dunelm would not require planning permission. It states as follows:

“As a result, I would advise that, having considered the relevant planning history and historic uses, the use of the site by Dunelm would not appear to require planning permission. However, should you wish to have formal confirmation via a legally binding decision, you should submit a certificate of lawful development application for the proposed development.”

This application has been submitted following receipt of the pre app response and seeks to formally confirm via a legally binding decision that the proposed occupation of the floorspace by Dunelm within Class A1 is lawful and does not require an additional planning permission.

THE PROPOSAL

The Applicant, Dunelm (Soft Furnishings) Limited, has recently agreed to purchase Unit A with the intention of commencing trading from it in the near future. This CLOPUD application has therefore been submitted to seek confirmation that the proposed occupation of the floorspace by Dunelm within Class A1 is lawful and does not require an additional planning permission.

Dunelm specialise in homeware and furnishing products, and provide a wide range of household goods, soft furnishings and furnishing products. The goods sold by Dunelm are predominantly considered to be bulky goods, as well as complementary ranges that tend to be bought alongside the bulky and heavier items.

Within a typical store, the largest proportion of floorspace is usually given over to bedding, including duvets, pillows and sheets, alongside window treatments (curtains, Curtain poles and blinds) and kitchenware (including electrical goods, dinner sets, mops and clothes airers). Dunelm also sells furniture ranges, and these product lines have increased in recent years. Furniture ranges include beds, wardrobes, sofas and dining tables.

The majority of the items sold by Dunelm are considered to be bulky. They do sell a number of non-bulky product ranges, although these are complementary to the overall bulky offer and concept at Dunelm, which is to provide a one-stop-shop to furnish a room or home.

Dunelm also provide cafés / coffee shops within their stores under their ‘Pausa Coffee Shop’ brand. Table 1 below shows the floorspace breakdown for the existing Dunelm stores in Wales. It clearly demonstrates that the coffee shops within their stores comprise an ‘ancillary’ element of their offer. Indeed, the largest element of floorspace used for such purposes within Wales comprises just 5.1% of the overall floorspace within their Llanelli store. It is anticipated that the intended operation at the Site will not exceed the highest proportion of floorspace for a café use as set out in Table 1 below.

Town	Total area (sq. m)	Sales area (sq. m)	% of total area	Pausa area (sq. m)	% of sales area	% of total area
Bridgend	4,360	3,709	85%	140	3.8%	3.2%
Cardiff	3,724	2,807	75%	149	5.3%	4.0%
Carmarthen	2,975	2,357	79%	85	3.6%	2.9%
Cwmbran	5,030	3,054	61%	138	4.5%	2.7%
Llanelli	3,630	2,895	80%	185	6.4%	5.1%
Pontypridd	3,853	3,150	82%	119	3.8%	3.1%
Swansea	4,480	3,676	82%	171	4.7%	3.8%

Table 1 – Floorspace Breakdown for Existing Dunelm stores in Wales

It is therefore considered that the proposed Dunelm operation from the unit is correctly described as falling under Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987 (as amended), rather than a mixed Class A1 / A3 use.

LAWFUL NATURE OF THE PROPOSAL

Section 192(1)(a) of the Act states that an application for a Certificate of Lawfulness of Proposed Use or Development should be submitted if '*...any person wishes to ascertain whether...any proposed use of buildings or other land is lawful*'.

In this case, the Applicant wishes to certify that the proposed occupation of the floorspace at Unit A, Pengarnddu Industrial Estate, by Dunelm within Class A1, would be lawful.

As confirmed within the pre-app response, received on 20 August 2024, the officers of the Council accept the October 1987 Permission (Ref: 52870845) to be the prevailing permission for the Site. The October 1987 Permission does not include any planning conditions which seek to control or limit the range of goods that can be sold from the floorspace. The permission therefore allows for, in effect, an unrestricted Class A1 use.

As the prevailing permission does not restrict the range of goods that can be sold from the Site, therefore, Dunelm do not require planning permission in order to occupy and trade from it.

In light of the above, and as agreed with the Council during pre-application discussions, the proposed occupation of the floorspace at Unit A by Dunelm within Class A1, would be lawful and does not require planning permission.

SUMMARY AND CONCLUSION

This application seeks to certify that the proposed use occupation of the floorspace at Unit A, Pengarnddu Industrial Estate, by Dunelm within Class A1, would be lawful.

The proposed Dunelm operation at Unit A will also include a small café. As evidenced above, the café will be ancillary to the prevailing Class A1 retail use.

As set out within the pre-app response, the officers of the Council accept that Ref: 52870845 comprises the prevailing permission for the Site. It does not include any planning conditions which seek to control or limit the range of goods that can be sold from the floorspace.

In light of the above, we respectfully request that the Council issues a Certificate, under Section 192(1)(a) of the Act, to confirm that the proposed use occupation of the floorspace at Unit A, Pengarnddu Industrial Estate, by Dunelm within Class A1, would be lawful.

If you have any queries regarding the above or require any further information in order to be able to issue the certificate, please do not hesitate to contact Ross Fraser on 07920 206 216 (ross.fraser@montagu-evans.co.uk) or Matthew Gray on 07881 230 361 (matthew.gray@montagu-evans.co.uk).

Yours faithfully,

Montagu Evans

MONTAGU EVANS LLP

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