

Delegated Decision Report

Application No:	25/0250	Statutory Period Expires:	2nd June 2025
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Site:	107B Albany Street Newport South Wales		
Proposal:	LAWFUL DEVELOPMENT CERTIFICATE (EXISTING) FOR THE USE OF THE SITE AS A STORAGE YARD (B8 USE)		
Applicant:	Borg		
Type:	Lawful Development Existing	Ward:	Shaftesbury
Decision:	ISSUED		

1. RELEVANT SITE HISTORY

None.

2. ASSESSMENT

This application seeks a certificate of lawfulness in relation to the existing use of a site as a storage yard (B8 use class) at 107B Albany Street. The site location plan identifying the site can be seen below:



2.1 In support of the application the applicant has submitted the following information:

- Statutory declaration from the current applicant/owner who has managed a nearby business since 2007, and is said to have known of the property's B8 storage/ distribution use since 2007;

- Google Earth photographs between 2001 to 2006, 2009 to 2013, 2015 to 2018, 2020 to 2023 and 2024 showing the site;

- A signed witness statement dated 11/3/2025 from the owner/manager of W Harold Metals Ltd at Adelaide Street in which it is stated that he has known the site for over 30 years and has observed it being used continually as a storage yard throughout this period.

- 2.2 There have been no planning applications relating to the site. However, there are two enforcement cases as follows:

E05/0357 – change of use to roofing business – outcome not recorded

E99/0334 – change of use to scaffolding depot – no breach found

- 2.3 The enforcement records are considered to have neutral weight in terms of supporting the applicant's position that the site has a B8 use. In relation to E99/0334 the enforcement case was closed due to no breach being found although case notes indicate that there was possibly a change of use to B8 scaffolding depot. In any case, the enforcement cases do not relate to the use of the site during the ten years prior to this LDC application.
- 2.4 The aerial photographs accompanying the application vary in terms of the image quality but do appear to show the use of the site for storage.
- 2.5 The burden of proof for such applications lies with the applicant. The courts have held that the relevant test of the evidence on such matters is 'the balance of probability'. It adds that a local planning authority should not refuse a certificate because the applicant has failed to discharge the stricter criminal burden of proof namely 'beyond reasonable doubt'. It adds that the courts have held that the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted and says that if the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less improbable, 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'. Furthermore, it confirms that the planning merits of the case are not relevant to the consideration of the purely legal issues involved in determining such an application.
- 2.6 Notably, the application is lacking in supporting information from commercial occupiers confirming that the property has been used by that company or companies over the requisite period as a B8 storage use, supporting evidence of utility bills, business rates etc. Whilst the burden of proof lies with the applicant, officers have sought information from the Council's Business Rates department. They advise that they have no record of the property whatsoever.
- 2.7 The witness statement is not sworn but in conjunction with the statutory declaration by the current owner is considered to carry significant weight.
- 2.8 Google Streetview images as far back as 2008 show signage at the site referring to DPW Roofing and Builders (B8 use). Whilst the presence of commercial signage at the site is by no means definitive, in conjunction with the statutory declaration, witness statement and aerial/street view images, the signage helps to support a case that the site has a lawful use of B8 storage. The Council has no evidence that would indicate otherwise.
- 2.9 On the balance of probabilities it is considered that sufficient information has been submitted to show the site has had a continual use as a storage yard Use Class (B8) and is lawful.

9. OTHER CONSIDERATIONS

9.1 *Crime and Disorder Act 1998*

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

9.2 *Equality Act 2010*

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual

orientation; marriage and civil partnership.

9.3 Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

9.4 The above duty has been given due consideration in the determination of this application. It is considered that there would be no significant or unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

9.5 ***Planning (Wales) Act 2015 (Welsh language)***

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Newport as a result of the proposed decision.

9.6 ***Newport's Well-Being Plan 2018-23***

The Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This duty has been considered during the preparation of Newport's Well-Being Plan 2018-23, which was signed off on 1 May 2018. The duty imposed by the Act together with the goals and objectives of Newport's Well-Being Plan 2018-23 have been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

10. **CONCLUSION**

10.1 It is considered that sufficient information has been submitted to show the site has had a continual use as a storage premises, Use Class (B8), in the ten years prior to the date of the application.

7.2 Therefore, the certificate is issued.

11. **DECISION**

ISSUED

01 The applicant has submitted sufficient information to show that on the balance of probabilities the site has had a continuous use for B8 storage of for the ten years prior to the submission of the application and the use is lawful.

NOTE TO APPLICANT

01 This decision relates to plan Nos: Witness statement dated 11/3/25, Google Earth aerial photographs, Statutory Declaration by Antonio Borg dated 26th March 2025.

02 The development plan for Newport is the Newport Local Development Plan 2011 – 2026 (Adopted January 2015). No Policies were relevant to the determination of this application.

03 Due to the minor nature of the proposed development (including any demolition) and the location of the proposed development, it is considered that the proposals did not need to be screened under the Environmental Impact Assessment Regulations.