

14th November 2023
L231114 SAV Covering Letter



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SUBMITTED VIA PLANNING PORTAL PP-12600737

Dear Sir or Madam

**SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
APPLICATION TO CERTIFY THAT THE PROPOSED USE OF THE PREMISES AS CLASS E 'COMMERCIAL
BUSINESS AND SERVICE' AND THE ADDITIONAL FLOORSPACE AT MEZZANINE LEVEL IS LAWFUL
UNIT 3, HAWLEY ROAD, HINCKLEY, LEICESTERSHIRE, LE10 0PR
PETS AT HOME LIMITED**

Introduction

We write on behalf of our client, Pets at Home Limited ('the Applicant'), to apply for a Certificate pursuant to Section 192 of the Town and Country Planning Act 1990 (as amended), to certify that the proposed use as Class E 'Commercial, Business and Service' and additional floorspace at mezzanine level at Unit 3, Hawley Road is lawful.

In accordance with the Town and Country Planning (Development Management Procedure) Order 2015, the application comprises the following:

- This covering letter;
- The completed application form;
- Planning Permission: 14/01066/FUL;
- Planning Permission: 15/00856/CONDIT;
- Site Location Plan, dated 13th November 2023;
- Drawing Reference: 6815d32 – 'Site Location Plan';
- Drawing Reference: 6815d30 - 'Existing Ground and First Floor'; and
- Drawing Reference 6815d31 - 'Proposed Ground and Mezzanine Floor Plan'.

The planning application has been submitted and the application fee (£231.00) paid electronically via the Planning Portal website (Ref: **PP-12600737**).

The Application Site

The application site comprises Unit 3, Hawley Road in Hinckley (the 'Site'). The Site forms part of a wider retail location which includes a B&M.

Unit 3 measures approximately 699 sq. m (GIA). The full extent of the Site is outlined in red on the 'Site Location Plan'.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East..

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Relevant Planning History

On 23rd October 2014, planning permission was granted for a *'Erection of class A1 retail development with associated access, servicing, car parking and landscaping (resubmitted scheme)'* (App Ref: 14/01066/FUL) (the **'2014 Permission'**).

The floorspace at the Site was constructed pursuant to the 2014 Permission. It continues to provide the relevant operational controls.

The 2014 Permission was granted pursuant to 13 conditions. None of those conditions imposed a cap on the maximum floor area, or the installation of mezzanine floors, or confirms the use of the unit.

On 29th September 2015, planning permission was granted for *'Variation of condition 2 of planning permission 14/01066/FUL (approved plans) to extend internal mezzanine for Unit 3.'* (App Ref: 15/00856/CONDIT) (the **'2015 Permission'**). This application resulted in the increase of the mezzanine floorspace from 232.3 sqm to 281.2 sqm.

The Proposal

Section 192(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...or any operations proposed to be carried out in, on, over or under is lawful'*.

The floorspace at the Site is proposed is currently occupied by Pets at Home.

The floorspace at the Site is to be occupied by Pets at Home. Pets at Home is the UK's leading retailer of pets, pet related products and associated services. The operator includes a pet care and treatment centre as part of the overall offer at the Site. That facility will offer a series of services such as: bathing, grooming, dental consultations, nutritional advice and the supply of licensed medicines for animals.

This application seeks to confirm that the following proposed use and works are lawful:

1. The proposed use of the premises as a 'retail shop' and 'pet care and treatment centre' is lawful and can the Site can operate as Use Class E 'Commercial, Business and Service'; and that
2. The additional floorspace proposed at mezzanine level is lawful.

Lawful Nature of the Proposal

The lawful nature of the proposed use, physical internal works and operation are set out below.

Proposed Land Use

As outlined above, the floorspace at the Site has previously been occupied and operated for 'shop' purposes pursuant to the grant of the 2002 Permission. It follows that the use of the premises prior to 1 September 2020 was within Class A1.

Statutory Instrument 2020 No. 757 introduced amendments to the UCO which simplified the classification of commercial uses. The effect of the legislation was to revoke Use Classes A, B1 and D and replace those classes with a new, single classification covering 'Commercial, business and service' uses (Class E).

A retail use was re-classified as one falling within Class E(a) of the UCO.

The wider provision of Class E also includes for medical or health uses. Class E(e) includes provision of:

'medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner'

The 'pet care and treatment facility' proposed at the Site falls into Class E(e).

As the Local Planning Authority will be aware, moving from one operation to another within the same use classification is not development as defined by Section 55(2)(f) of the Town and Country Planning Act 1990 ('the Principal Act'). Section 55(2)(f) states:

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

Furthermore, the Explanatory Memorandum¹ issued alongside Statutory Instrument is explicit that a change or a mix of uses within Class E is supported and does not constitute development requiring planning permission. It states²:

*This new class allows for a mix of uses to reflect changing retail and business models. It therefore, **recognises that a building may be in a number of uses concurrently** or that a building may be used for different uses at different times of the day. **Changes to another use, or mix of uses, within this class do not require planning permission.** Bringing these uses together and allowing movement between them will give businesses greater freedom to adapt to changing circumstances and to respond more quickly to the needs of their communities'. (Savills emphasis in bold).*

It follows that the proposed use of the floorspace for a mix of 'retail' (Class E(a)) and 'medical and health services' (Class E(e)) is not development requiring planning permission. Both types of operation accord with the permitted use of the floorspace which is one within Class E.

Proposed Mezzanine Floorspace

The applicant also wishes to certify that the additional floorspace at mezzanine level is lawful. The proposed mezzanine floorspace is illustrated on Drawing Reference: 6815d31 'Proposed Ground and Mezzanine Floor Plan'.

Internal works that do not affect the external appearance of a building are not typically defined as 'development' within the Principal Act. Section 55(2A) does however state that where works have the effect of increasing gross floorspace of a building in use for retail purposes by more than 200 sq. m then they do constitute 'development'.

The proposed works will not increase the GIA of the building and therefore do not trigger constitute 'development' as defined by Section 55 and do not require planning permission.

Summary and Conclusion

This application seeks to certify that the proposed use and additional floorspace at mezzanine floorspace is lawful.

¹ See Explanatory Memorandum to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 Statutory Instrument 2020 No. 757.

² See Paragraph 7.3 of the Explanatory Memorandum.

The application has been submitted to obtain certification that various elements of the business model of Pets at Home accord with the established planning controls.

This application seeks to confirm that the following proposed use and works are lawful:

1. The proposed use of the premises as a 'retail shop' and 'pet care and treatment centre' is lawful and can the Site can operate as Use Class E 'Commercial, Business and Service'; and that
2. The additional floorspace proposed at mezzanine level is lawful.

In light of the above, we request that the Council approves this application and issues a Certificate, under Section 192 of the Act, to confirm that the proposed use and development is 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 Heloise Whiteman or Katie Parfett at these offices.

Yours faithfully,



Savills (UK) Limited
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