

Q+A Planning
The Stables
Paradise Wharf
Ducie Street
Manchester
M1 2JN

Manchester City Council
Planning
PO Box 532
Town Hall
Manchester
M60 2LA

12 October 2021

Dear Sir/Madam,

**RE:PP-10216014: Application for Certificate of Lawful Development in respect of
Anchors Away Play Centre, Greenbrow Rd, Wythenshawe, Manchester, M23 2XQ.**

Introduction and Site Description

On behalf of our client Seva Patidar Ltd please find enclosed an application submitted under section 192 of the Town and Country Planning Act 1990 for a Certificate of Lawful Development to confirm that the proposed use of the above premises for Class E retail would not require planning permission and would therefore be considered a lawful use.

The application form and site location plan have been submitted electronically via the Planning Portal (PP-10216014) and the requisite fee of £231 paid online at the point of submission.

The site is broadly rectangular in shape, extending to 0.23 ha and comprises a large brick built, single storey, building with paved frontage to Simonsway and a substantial surface level car park to the rear accessed off Greenbrow Road. The building has been in longstanding use as an indoor children's play centre (Class E) since 2009, formerly as the Royal Navy Association Club house.

Legislative Background

Town and Country Planning Act 1990

Section 55(1) of the Town and Country Planning Act 1990 defines the term 'development' which includes the change of use of a building. Section 55(2)(f) explains that in the case of buildings used for a purpose of any class specified in an order made by the Secretary of State, the use of that building for any purpose within the same class shall not be taken, for the purpose of the Act, as amounting to 'development'.

Section 192 of the Act makes provision for an application to be made to a Local Planning Authority (LPA) by anyone who wishes to ascertain whether any proposed use of a building

would be lawful. In such applications the planning merits are not relevant. The LPA is asked to formally determine that planning permission is not required.

The Use Classes Order

The Government published the Town and County Planning (Use Classes) (Amendment) (England) Regulations 2020 in July of last year which came into force on the 1st September 2020. The changes included the recalibration of the classification of uses of property. Former Classes A, B1 and D, applicable to retail, office and non-residential institutions and assembly and leisure uses respectively, have now been removed and a new use class introduced in their place.

The new Class E encompasses commercial, business and service and brings together the former A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes) and B1 (business) as well as parts of classes D1 (non-residential institutions) and D2 (assembly and leisure) into one single use class to allow for changes of use without the need of planning permission.

The Town and Country Planning (Use Classes) Order 1987 (as amended) defines the classes of use for the purposes of section 55(2)(f) of the 1990 Act. Class E in Schedule 2 Part A is defined as:

“Class E. Commercial, Business and Service

Use, or part use, for all or any of the following purposes –

- (a) For the display or retail sale of goods, other than hot food, principally to visiting members of the public,***
- (b) For the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises.*
- (c) For the provision of the following kinds of services principally to visiting members of the public –*
 - a. Financial services,*
 - b. Professional services (other than health or medical services), or*
 - c. Any other services which it is appropriate to provide in a commercial, business or service locality,*
- (d) For indoor sport, recreation or fitness, not involving motorised vehicles or firearms or use as a swimming pool or skating rink, principally to visiting members of the public,***
- (e) For the 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,*
- (f) For a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- (g) For*
 - a. An office to carry out any operational or administrative functions,*
 - b. The research and development of products or processes, or*
 - c. Any industrial process.*

Being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."

Interpretation of the Legislation

Section 55(2)(f) of the 1990 Act states that a change of use is not development where the former use and the new use are both within the same class. Changes of uses which are not to be taken as development do not require planning permission.

The existing children's facility plainly operates under Class E(d) of the amended Use Classes Regulations as defined above. On the facts of this case, it is asserted that the proposed use of the building for retail Class E (a) would not constitute change of use and therefore no planning permission is required.

Accordingly, the proposed use is not considered to constitute development and the Certificate of Lawfulness should be granted.

We trust that the Council has all the information required to determine this application, however, should you require anything further please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'David Hinds'.

David Hinds
Planner

For and on behalf of
Q+A Planning Ltd