

Planning

Growth & Development

Delegated officer report for planning application

Application no. 141894/LE/2025

Date registered valid: 28 January 2025

Proposal: Use of the first and second floors for Commercial, Business and Service operation within Use Class E

Address: Victoria Exchange (Former Martin House) , Hunts Bank , Manchester, M3 1AX

Ward(s): Deansgate Ward

Applicant: London Metric

Agent (if any): Miss Sophie Moore Savills (UK) Limited

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Grant

Date of recommendation: 25 March 2025

Application details

Type of application: Certificate Lawful Development Existing

Development type: Certificates of lawfulness

Date of site visit: Not Required

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building and area

The application site encompasses the first and second floors of the former Martin House building at Victoria Exchange.

This site is part of the larger AO Arena complex and is adjacent to Manchester Victoria train station.

The AO Arena is situated within the northernmost part of the City Centre, near to the Northern Gateway, the NOMA neighbourhood, Green Quarter, and the recently announced Strangeways and Cambridge Strategic Regeneration Framework Area.



Image 1 Google Earth Image of the AO Arena, Victoria Railway Station and northern part of the City Centre.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

The Certificate of Lawful Existing Use or Development (CLEUD) under consideration pertains to the utilisation of the first and second floors for Commercial, Business, and Service activities, classified under Use Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Consultations & Notification Responses

None Required - There is no statutory requirement to consult third parties including neighbours; views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application.

Issues

Sections 191 and 192 of the Town and Country Planning Act 1990 provide for anyone (not just a person with a legal interest in the land) to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying:

(1) in the case of an application under section 191, the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition; or

(2) in the case of an application under section 192, the lawfulness of proposed operations on, or use of land.

The onus of proof in regard to (1) is firmly on the applicant and the issue of a certificate will depend on the on factual evidence provided about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The relevant test of the evidence in this matter is “the balance of probability” and the applicants own evidence does not need to be corroborated by independent evidence. If the LPA have no evidence to contradict the applicant’s version of events or make them less then probable, there is no good reason to refuse the issue of a certificate.

In regard to (2), this provides that, if the LPA are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

In short, the purpose section 192 is to enable any person who wishes to find out whether any proposed use or operations would be lawful to apply to the LPA for that purpose.

The application needs to describe the proposal with sufficient clarity and precision to enable the LPA to understand (from a written description and plans) exactly what is involved in the proposal; and to submit whatever supporting information or legal submission that are to be relied upon in order to satisfy the LPA that a certificate should be granted for the proposal.

In making their decision on an application under section 192, the LPA ask themselves the hypothetical question - "If this proposed change of use had already occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?" In doing so, the LPA will not only consider whether the proposal would involve "development" requiring an application for planning permission, but whether it would involve a breach of any existing condition or limitation imposed on a grant of planning permission which has been acted upon, and which therefore constrains what can be done on the land. The LPA will not make a proposal fit a scenario; the only question is whether the proposal made by the applicant is lawful at the time of submission.

Relevant Planning History

There have been several planning applications related to the wider site, including its use as both an arena and a train station. The relevant applications for this particular case are as follows:

Application Number	Status	Description
042136	Application Approved - 29.10.1992	Mixed use redevelopment including indoor arena, multi-storey car park, hotel, offices, retail, multi-screen cinema, ancillary facilities, and landscaping
060781/FO/CITY1/00	Application Approved - 10.01.2001	Change of use of existing leisure development and development of semi-basement area for B1 use

The Application

This application is pursued under subsection (1) of section 191, which provides for an application to determine whether a specified existing use, operation, or failure to comply with a planning condition or limitation, which has already been carried out on land, is lawful for planning purposes.

The application seeks formal confirmation that the existing use of the site for any “Commercial, Business and Service” purposes within the Use Class E is lawful.

Property Description

The application site concerns the first and second floors of the former Martin House building at Victoria Exchange. The site forms part of the wider AO Arena and adjoins Manchester Victoria train station within the northern part of the City Centre.

Use Class/Justification

The Government published the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 in July 2020, which came into force on the 1st of September 2020. The changes included revisions 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, were removed, and a new use class introduced in their place.

The new Class E includes 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 for 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:
 - i) Financial services,
 - ii) Professional services (other than health or medical services), or
 - iii) 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.

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'.

The applicant refers to the two previous planning applications at the site:

1. **Reference: 42136** - Planning permission was granted for:

- “Mixed use redevelopment including indoor arena, multi-storey car park, hotel, offices, retail, multi-screen cinema, ancillary facilities, and landscaping.”
- This permission covered the wider site and established it as a mixed-use development.

2. **Reference: 060781/FO/CITY1/00** - Planning permission was granted for:

- “Change of use of existing leisure development and development of semi-basement area for B1 use.”
- The 2001 permission allowed the use of the floorspace at the site to office, formerly a B1 use class now within the changes falls within Class E(g).

These office areas are shown in the approved drawings (images 2 and 3) with the respective areas highlighted in green for ease of reference by the case officer. Thus, the use of the first and second floors for Commercial, Business and Service operation would satisfactorily fall within Use Class E (formerly B1), it is considered that this would not constitute a change of use. Consequently, it would be excluded from the definition of development, and no planning permission is required.

Article 3(4) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states: “(4) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.”

As the use described here does not constitute development by the Use Classes Order and that the change of use is not reliant on the General Permitted Development Order (GPDO) to change, article 3(4) does not apply here.

Therefore, no conditions from previous planning applications apply.

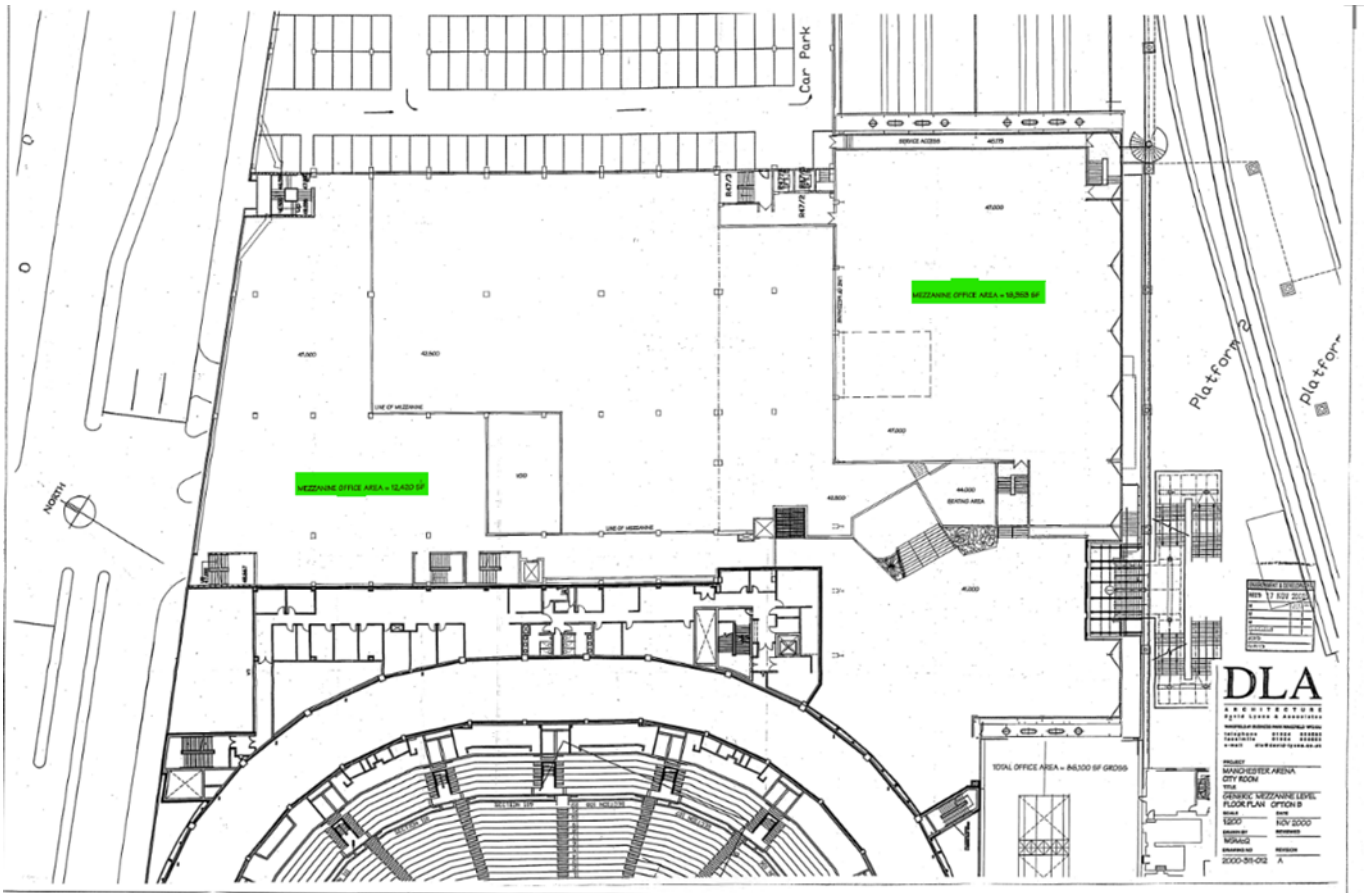


Image 2 Approved Drawing No: 2000-311-012 Rev A, office areas highlighted in green, application reference: 060781/FO/CITY1/00

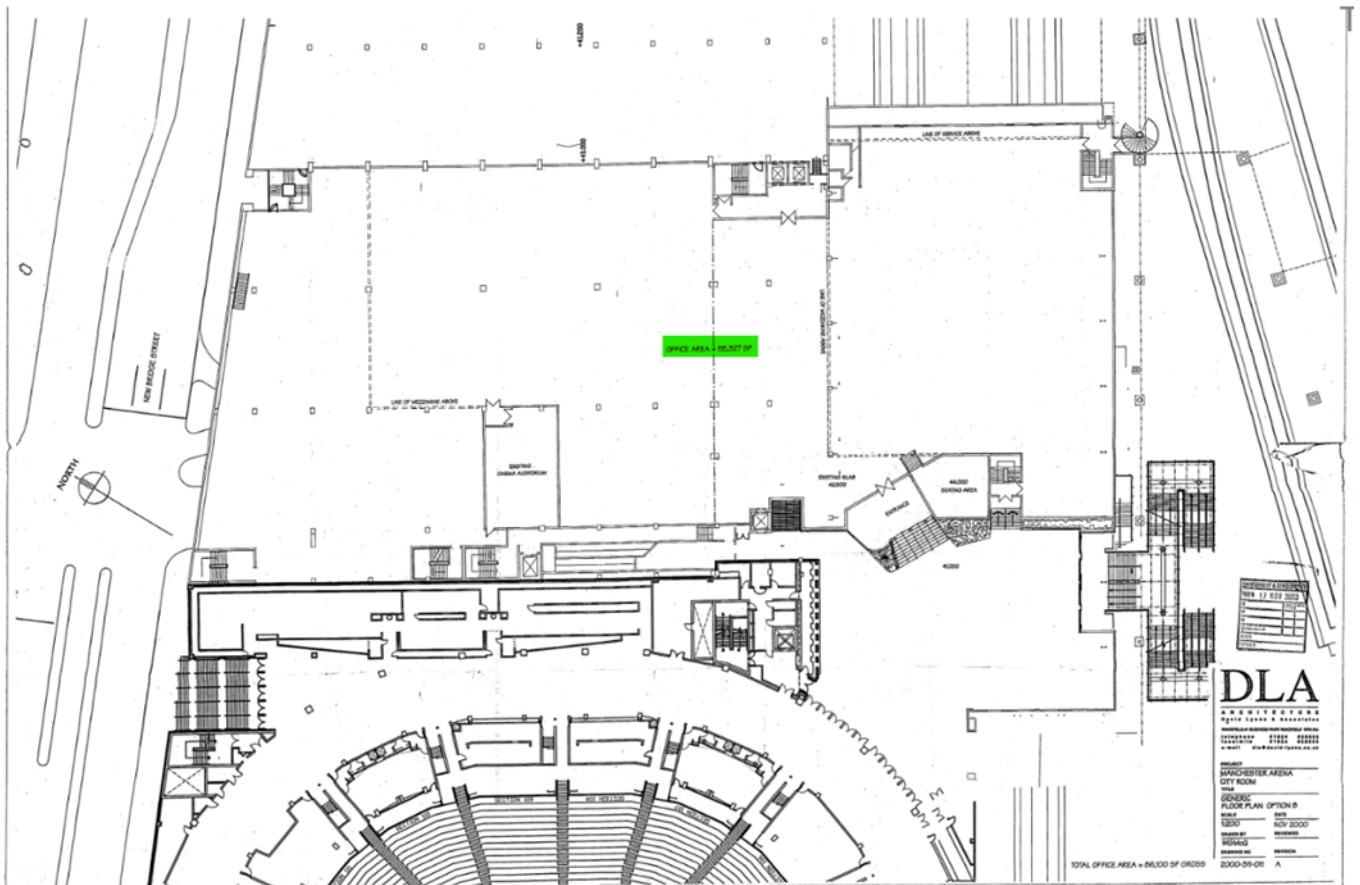


Image 3 Approved Drawing No: 2000-311-011 Rev A, office areas highlighted in green, application reference: 060781/FO/CITY1/00

Conclusion

In summary, the application seeks to confirm the lawful use of the first and second floors of the former Martin House building at Victoria Exchange for any "Commercial, Business and Service" purposes within Use Class E. The site forms part of the wider AO Arena and adjoins Manchester Victoria train station, making it a strategic location within the northern part of the City Centre.

The Town and County Planning (Use Classes) (Amendment) (England) Regulations 2020, which introduced Use Class E to streamline various commercial, business, and service uses. The previous planning permissions granted for the site, including the mixed-use redevelopment and the change of use for office space, further substantiate the lawful use of the site within Class E (formerly class B1).

Given that the proposed use does not constitute a change of use under the Town and Country Planning Act 1990 and is not reliant on the General Permitted Development Order (GPDO), no additional planning permission is required. Therefore, the application meets the criteria for lawful use as defined by the relevant planning regulations.

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Grant

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

- 1) Based on the available evidence and relevant planning legislation, Manchester City Council has determined that the use of the first and second floors for Commercial, Business, and Service operations within Use Class E is lawful. This determination is made because the previous use as an Office (formerly B1) now falls within Use Class E and does not constitute a change of use. Consequently, it is excluded from the definition of development, and no planning permission is required

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Article 4 Direction - City Centre PD Restriction - Class B1(a) To C3

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Area Team Boundary - Name: CENTRAL