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L250113 SAV Cover Letter



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SUBMITTED VIA PLANNING PORTAL REF: PP-13683433

Dear Sir or Madam,

**SECTION 191 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
APPLICATION FOR A CERTIFICATE OF LAWFULNESS TO CONFIRM THAT THE EXISTING USE OF THE
FLOORSPACE FOR ANY 'COMMERCIAL, BUSINESS & SERVICE' (CLASS E) IS LAWFUL
VICTORIA EXCHANGE (FORMER MARTIN HOUSE), HUNTS BANK, MANCHESTER, M3 1AX
LONDON METRIC PROPERTY PLC**

Introduction

We write on behalf of the applicant, London Metric Property PLC, to apply for a Certificate of Lawfulness under Section 191 of the Act, to confirm the existing use of floorspace at the above premises for any 'Commercial, Business and Service' purpose within Use Class E, is lawful.

In accordance with the Town and Country (Development Management Procedure) Order 2015 (as amended) we enclose the following documents which comprise the application:

- This covering letter;
- The completed application forms;
- Decision Notice Reference: 060781/FO/CITY1/00;
- Decision Notice Reference: 42136
- The following plans/ drawings:
 - Drawing Ref: 23925-7003 – 'First Floor Demise Plan';
 - Drawing Ref: 23925-7004 – 'Second Floor Demise Plan'; and
 - Drawing Ref: 23925-200 – 'Site Location Plan'.

As the application has been submitted electronically via the Planning Portal Website (Ref: **PP-13683433**) the requisite fee of **£289.00** has been made by BACS.

Application Site

The application site comprises the 'office' floorspace at First and Second floors within the former Martin House building at Victoria Exchange, Hunts Bank, Manchester M3 1AX ('the Site').

The floorspace has been used as 'office' floorspace for approximately 20 years.

The Site forms part of the wider AO Arena and adjoins the Manchester Victoria train station. Access is gained either from Trinity Way, or via the link bridge across the railway within Manchester Victoria station. Customer parking for the AO arena is located both at ground floor level and on the roof of the building.

The extent of the Site is outlined in red on the submitted Location Plan (Drawing Ref: 23925-200).



Relevant Planning History

On 29 October 1992, 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.” (App Ref: 42136) (the “1992 Permission”)

The 1992 Permission covered the wider site and established a mixed use development.

On 10 January 2001, planning permission was granted for:

“Change of use of existing leisure development and development of semi basement area for B1 use.” (App Ref: 060781/FO/CITY1/00) (the “2001 Permission”).

The 2001 Permission granted the change of use of the floorspace at the Site to ‘offices’ (formerly within Class B1 now within Class E(g)). The 2001 Permission was granted pursuant to seven conditions; none of which imposed any control on the future use of the floorspace.

Legislative Background

Section 191 of the Act states:

“(1) If any person wishes to ascertain whether –

- (a) Any existing use of buildings or other land is lawful;*
- (b) Any operations which have been carried out in, on, over or under land are lawful; or*
- (c) Any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) for the purpose of this Act uses and operations are lawful at any time if –

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- (b) they do not constitute a contravention of any the requirements of any enforcement notice then in force.*

The Planning Practice Guidance (‘PPG’) advises that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the Applicant’s version of events less than probable, 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.

Justification for the Existing Use

This application seeks formal certification that the existing use of the Site for any ‘Commercial, Business and Service’ purpose within Use Class E, is lawful.

Pursuant to the grant of the 2001 Permission the areas outlined on the attached plans (Drawing Refs: 23925-7003 and 23925-7004) have been occupied as ‘offices’ within Class E(g).

Statutory Instrument 2020 No. 757 introduced amendments to the Use Class Order ('UCO') which simplified the classification of commercial uses. The effect of that legislation has been to revoke the former Use Classes A, B1 and D and replace those classes with a new, single classification covering 'Commercial, business and service' uses (Class E). Accordingly, all of the floorspace at the Site can correctly be described as falling within Use Class 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.*

This is also confirmed by Article 3(1) of the UCO which explicitly states that use of a building for any other purpose within the same class does not constitute the development of land.

The question therefore arises as to whether there are any restrictions on any existing permissions that would prevent the floorspace from being used for any purpose within Use Class E.

As set out above, there are no planning conditions attached to the 2001 Permission that limit the use of the floorspace to 'offices' or explicitly remove the provisions of the UCO.

Summary and Conclusion

This application seeks to certify that the existing use of the floorspace at the Site for 'Commercial, Business and Service' use within Class E is lawful.

The submission includes the relevant planning history for the Site and the regulatory background which provides the justification for the existing use. For example, there are no conditions attached to the 2001 Permission that restrict any other use or expressly remove the provisions of the UCO.

Accordingly, we request that the application is approved, and that a Certificate is issued under Section 191 of the Act, confirming that:

"The unrestricted use of the floorspace for any 'Commercial, Business and Service' operation within Use Class E is lawful."

We trust that the details included above provide you with sufficient information to register and consider the application. We will endeavour to contact you within the next couple of days to ascertain the Council's timetable for decision making.

In the meantime, should you require any clarification or additional information, please do not hesitate to contact Sophie Moore or Bradley Wiseman at these offices.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Savills", written in a cursive, flowing style.

Savills (UK) Ltd
Planning