

10 November 2023



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Planning Portal Reference: PP-12595019

Dear Sir/Madam

Section 192 of The Town And Country Planning Act 1990 (As Amended)
Application to certify that the proposed use of the building as a nail salon lawfully falls within Class E
Unit 2, West Tower, Manchester, M15 4YB

Introduction

We write on behalf of our client 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 of Unit 2, West Tower, Manchester as a nail salon lawfully falls within Use Class E (Commercial, Business and Service).

The application comprises this covering letter and the following documents:

1. The completed application forms and certificates
2. Site Location Plan
3. Statutory Instrument 2020 No 757
4. Consent Ref: 111719/FO/2016/C1

The planning application fee of £295 (inclusive of service charge) has been paid electronically via the Planning Portal.

Application Site

The application site is located at Unit 2, West Tower, Manchester M15 4YB. The site comprises a unit on the south of Deansgate and east of Owen Street. The unit was permitted with a retail use class (Use Class A1, A2 or A3) as per permission ref.: 111719/FO/2016/C1.

The site is in a prominent location along Deansgate within Deansgate Square and is in close proximity to Deansgate Rail Station which is located approximately 120m to the north-east of the site. The site is accessed by vehicular traffic off the A56 onto Deansgate. Pedestrian access is via the pavement on Deansgate as well as the pedestrianised Deansgate Square.

Lawful Nature of the Proposed Development

On 21 July 2020, Statutory Instrument 2020 No. 757 was laid before parliament by the Government. It comprises a number of changes to the Town and Country Planning (Use Classes) Order 1987 (the "Use Classes Order"). The changes outlined within the Statutory Instrument became effective on 1 September 2020.

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Granted in 2016, the consent for the site (ref:111719/FO/2016/C1) includes ground floor retail units (Use classes A1, A2 or A3), which are now-revoked Use Classes. For reference, consent 111719/FO/2016/C1 is submitted with this application.

Statutory Instrument 2020 No. 757 introduces amendments to the Use Classes Order which seeks to simplify the classification of commercial uses. The effect of the new legislation is 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).

The new Class E also includes a wider provision for general service uses where they are appropriate to a commercial location. Class E(c)(iii) includes provision for:

'Other appropriate service in a commercial, business or service locality.'

The nail salon proposed therefore accords directly with the provisions of Class E(c)(iii).

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.*

It therefore follows that the existing lawful use of Unit 2 is for any operation within Class E of the Use Classes Order and that the use of all of the floorspace within Unit 2 is now correctly described as being within Class E 'Commercial, business and services'.

We are therefore seeking confirmation that the nail salon use described above falls within Use Class E as set out within Statutory Instrument 2020 No. 757. As such there is no requirement for a formal planning application to use the site as described, as it is not considered to be 'development', in accordance with the Town and Country Planning Act 1990.

Summary and Conclusion

This application seeks to certify that the proposed use of Unit 2, West Tower Manchester as a nail salon falls within Use Class E.

The existing use of the floorspace at the Site is for 'retail' with flexibility of A1, A2 and A3 use. The use classification of this operation now falls within Class E of the Use Classes Order.

Section 55(2)(f) of the Principal Act is explicit that moving between operations within the same use classification does not constitute development of land. It follows that such operations do not require planning permission.

In light of the above, we respectfully request that the Council issues a Certificate, under Section 192 of the Act, to confirm that the use of the floorspace as a veterinary practice falls within Use Class E.

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 Duncan Wenham at these offices.

Yours faithfully,



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