Your Ref: PP-14568547
Our Ref: HPD/DSP/MS/25/170
Date: 16 December 2025

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Manchester City Council
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Dear Sir/Madam,

RE: CERTIFICATE OF LAWFULNESS – PART GROUND FLOOR & BASEMENT MEZZANINE, SUNLIGHT HOUSE, QUAY STREET, MANCHESTER M3 3JZ

We write on behalf of our client, Joe & The Juice Limited (the "Applicant"), to submit a certificate of lawfulness for the existing use in relation to the part of the ground floor and basement mezzanine of Sunlight House, Quay Street, Manchester M3 3JZ (the "Site") for:

"Application for a Certificate of lawfulness to confirm the use of part of the site falls within a Commercial, Business and Service (Class E) use pursuant to the Town and Country (Use Classes Order) 1987 (as amended)."

Following changes to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the 2020 Regulations") which took effect on 1st September 2020, this application seeks confirmation that the Site is in Class E (Commercial, business and service) use and that its use for any use within Class E would be lawful and not require further planning permission.

Site Context and Planning History

The proposal site relates to part of the ground floor and basement of Sunlight House, which historically formed part of the reception/cafe area. Sunlight House is located on the corner of Quay Street and Little Quay Street in the city centre of Manchester. The proposed Joe & The Juice will be accessed via a door on the corner. Joe & The Juice will also use the basement for operations and seating, which was recently approved for Class E under a previous approval (LPA Ref: 135529/LE/2022).

The building is within Deansgate Conservation Area and is seen in context with other listed buildings, including the Manchester Opera House on Quay Street, Royal London House at the junction of Deansgate and Quay Street and the former Country Court building on Deansgate, which are all Grade II Listed, other than the Country Court building, which is Grade II* Listed.

The site is in proximity to the Manchester Central Convention Complex located on Windmill Street, Manchester Central Library at St Peter's Square and the Deansgate historical avenue with shopping and dining. Spinningfields is adjacent to the site, which includes premium financial and professional services in a mixed-use setting with civic, residential, leisure and retail uses.

Whilst the site has an extensive planning history, we consider the following applications to be the most pertinent to the current proposals:

- **144012/LO/2025** - Listed Building Consent for the creation of a slab opening and staircase connecting ground floor and basement mezzanine level. Approved 12 Nov 2025
- **135529/LE/2022** - Use of part of the ground floor, basement and sub-basement of Sunlight House as Class E (a-g). Approved 11 Jan 2023
- **136161/LO/2023** - Listed Building Consent for the refurbishment of the office areas including ground floor reception area together with elevational alterations. Approved Jul 2023
- **115806/LO/2017** - Listed Buiding Consent for the installation of a new frontage to create a new entrance from Little Quay St , the restoration of the stained glass dome , the insertion of 2 No glazed lifts within

the existing lightwell, internal modification at ground floor level to create a new reception and cafe area, the refurbishment of the 13th and 14th floors to existing office space and the landscaping works to Little Quay Street. Approved Jun 2017

- **109882/FO/2015/C1** - Elevational alterations to include the installation of a new entrance to the ancillary reception and cafe car area, restoration of the central stained glass dome and the Insertion of 2 no. glazed lifts into lightwell area, and the implementation of a landscaping scheme to Little Quay Street. Approved 28 Jun 2016
- **109883/LO/2015/C1** - Elevational alterations to include the installation of a new entrance, restoration of the central stained glass dome and the Insertion of 2 no. glazed lifts into lightwell area, internal modifications to create a new reception area at ground floor level, and the refurbishment of existing office space at the 13th and 14th floor. Approved 28 Jun 2016
- **090330/LO/2009/C1** - LISTED BUILDING CONSENT Installation of ceiling and ceiling rafts to the stair cores and parts of the communal corridors on the 1st, 2nd,3rd,5th and 6th floors and refurbishment of ground floor reception areas. Approved 11 Nov 2009
- **085698/LO/2008/C1** - LISTED BUILDING CONSENT to refurbish reception area and common parts and re-model external facade at ground floor level. Approved 15 Jul 2008
- **049084/LO/CITY1/95** - LISTED BUILDING CONSENT Internal refurbishment including toilets,corridors, lobbies and 2no.main entrances. 21 Oct 1996
- **033984** - LISTED BUILDING CONSENT Alterations to ground floor entrance/exit doors to ensure adequate means of escape. Approved 17 May 1989
- **F12071** - Change of Use to non-residential club involving proposed alteration to existing swimming pool and forming health and leisure facilities with restaurant and bars. Approved 5 Dec 1979
- **F10362** - Change of use of the basement and ground floor to a non-residential club involving alterations to existing swimming pool and forming health and leisure facilities with restaurant and bars. Approved 4 Apr 1979

The tenancy sits on the corner of Quay Street and Little Quay Street. Historically, this area has been used as a larger reception and cafe space for the offices on the upper floors. Listed Building Consent (136161/LO/2023) was granted in 2023 for the refurbishment of the office areas, including the ground floor reception area. In this approval, the ground floor was reconfigured, and this moved the cafe into the corner where we are now proposing the Joe & The Juice.

The full planning application, which shows this area before it was reconfigured, was for the creation of a new entrance on the Little Quay St elevation, and landscaping and associated works (115805/FO2017). This shows the ground floor layout as existing before it was changed.

Confirmation of Existing Use

This application is for confirming that the existing use is class E and that the unit can be used within class E.

No external building works or other works are proposed. The ground floor is proposed to be used as a juice bar/café, open to the public and occupants of the upper floor offices (Use Class E).

Planning Legislation

Section 191 of the Town and Country Planning Act 1990 (as amended) sets out the provisions for determining whether any existing use of buildings or other land use lawful. Section 191(4) of the Act states that

"If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application."

The National Planning Practice Guidance, most recently published in 2014 sets out further guidance on lawful development certificates. It confirms that an application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application, and that the applicant is responsible for providing sufficient information to support an application.

It also confirms 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.

It is also clear that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

The Town and Country (Use Classes) (Amendment) Order 2020 (the "Amendment Order") made changes to the Town and Country (Use Classes) Order 1987. Notably, the Amendment Order deleted all of Class A, Class B1, Class D1 and D2 of the 1987 Order, and replaced it with a new Class E, Class F1 and F2. Regulation 7 of the Amendment Order sets out that *"if a building or other land … is being used for the purpose of [Class A1, A2, A3 or B1] on 31 August 2020, that building or other land is to be treated on or after 01 September 2020 as if it is being used for a purpose specific within Class E (Commercial, business and service)."*

Planning Assessment

This application seeks to establish that the existing ground floor level automatically transitioned from the previous Class A1, A3 and B1 uses as retail and offices to a Commercial, Business and Service use (Class E) on 1 September 2020 in line with the Amendment Order.

The evidence and relevant information which has been gathered in support of this application, in line with section 191(5) of the Act is as follows:

1. **Specify the land to which a certificate application relates**: floorplans including a site location plan identifying the areas to which the application relates have been prepared and submitted;
2. **Describe the use or other matters in question:** the use relates to the ground floor which is in a retail use;
3. **Reasons for determining the use to be lawful:** the following evidence has been gathered to give evidence to the Local Planning Authority reasons to determine the use as lawful:
    i) A review of the relevant planning history,
    ii) Valuation Office Agency Business Rates records which show that the ground floor rates as Shop and premises,
    iii) Circumstantial evidence such as google street view images and google searches.

<u>Statutory Context</u>

On 21st July 2020, the government published the Town and Country Planning (Use Classes) (Amendment) Regulations 2020 which became effective from 1st September 2020 ('the Amendment').

Regulation 7 of the Amendment states that:
"For the purposes of the Use Classes Order, if a building or other land is situated in England, and is being used for the purpose of one of the following classes which were specified in Part A or B of the Schedule to that Order on 31st August 2020, as—
(a) Class A1 (Shops),
(b) Class A2 (Financial and professional services),
(c) Class A3 (Restaurants and cafes), or
(d) Class B1 (Business),
that building or other land is to be treated, on or after 1st September 2020, as if it is being used for a purpose specified within Class E (Commercial, business and service) in Schedule 2 to that Order."

Furthermore, Regulation 2 of the Amendment also confirmed the revocation of Part D of the Schedule to the Use Classes Order, with Class D1 split out and replaced by the new Classes E(e-f) and F1. Section 55(2)(f) of the Town and Country Planning Act 1990 (as amended) states that movement from one primary use within a use class to another within the same use class shall not be taken to be development of the land.

Therefore, and based on the evidence included within this Certificate application, the Class E use falls outside of the Section 55 definition of development by virtue of Section 55 (2)(f) and would be lawful.

Planning History

The site's planning history, using the information publicly available via the Manchester City Council's online planning records, has been listed above. The relevant planning history relating to land use at the site specifically demonstrates that it has been used for commercial uses, including the reception/café area, ancillary to the upper floor offices. There is no evidence to suggest the building has been used for any other purpose, other than offices/café and ancillary uses. Furthermore, of those planning permissions identified above, none of these have any restrictive planning conditions and/or obligations that specifically control that use.

In 2023, a Certificate of Lawfulness was approved by the Council (LPA Ref. 135529/LE/2022) for the basement, which confirms it can be used as Class E(a-g). The basement section of the tenancy previously went through a change of use in 1989 from a health centre, leisure facilities, bar, shop and ground floor to a restaurant, nightclub, disco and associated leisure facilities (ref: 033987) with an associated listed building consent also approved in 1989 for internal alterations (ref: 034050). In the officer's report, it stated the following:

"Therefore, as the use was a gym that meets the definition of Class E(d) and therefore a change to any other sub use within the use class would not constitute change of use and therefore would be excluded from the definition of development and no planning permission would be required."

Lastly, LBC was approved for the creation of a slab opening and staircase connecting the ground floor and the basement mezzanine level, which is the tenancy Joe & The Juice is proposing to occupy (144012/LO/2025). In the officer's report, it stated:

"The ground floor area is known as the café unit as it was an aspiration to have this type of use on the corner unit following the approval of application 136161/LO/2023."

"The creation of an opening and installation of a staircase would ensure the use of a vacant area of the listed building. The principle of a staircase to create two levels also will help the long-term sustainable occupation of the café unit and preventing the basement area from being underused."

As such, it is understood that the café area on the ground floor and the basement has always been included as an ancillary reception/cafe area and would fall under Class E, and no Change of Use is necessary.

Conclusion

We consider that this evidence demonstrates that the site in question has automatically transitioned and is within a lawful Commercial, business and service (Class E) use. The site has continued to be occupied for commercial, including office and ancillary reception/cafe, which are all entirely lawful within Class E (Commercial, business and service) use, including a previous certificate of lawfulness. The information and facts of the evidence prove this is sufficiently precise and unambiguous on the balance of probabilities. There are no restrictive planning conditions or clauses, as far as we are aware, which would preclude the provisions of Regulation 7 of the Amendment Order.

Summary

In support of this application, alongside a copy of this letter we have submitted the following:

- Completed application form (submitted via the planning portal);
- Site location plan;
- General Arrangement Plan (ref. 7063-C01);
- South & East Elevations (ref. 7063-C02); and

The requisite fee of £379.00 (including the planning portal service charge of £85.00) will be paid online via the planning portal in due course.

Please do not hesitate to contact me (07802 438317 / mshadforth@hpduk.com) should you wish to discuss any of the content of this submission in further detail.

Yours sincerely

