

Our Ref.: 22-00861

10 June 2022

York House
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M2 3BB

London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
UB8 1UW



LONDON
BIRMINGHAM
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Dear Sir / Madam,

**Re: Application for Lawful Development Certificate to confirm that the proposed dentistry use at unit HS1,
The Chimes Shopping Centre, Uxbridge, UB8 1LA is lawful.**

Rapleys LLP have been instructed to submit an application for a Lawful Development Certificate (LDC) on behalf of {my}dentist to confirm that the lawful use of the aforementioned site, falls within Use Class E.

The application has been submitted electronically via the Planning Portal (PP-11316566) on 10 June 2022 and is accompanied by the following supporting information:

- Site Location plan;
- Proposed site plan;
- Proposed floor plan; and
- Existing floor plan.

We respectfully ask that the contents of this letter and the attached appendices are also taken into consideration.

Site and Surroundings

The site comprises a Class E unit (formerly A1) located at ground floor level fronting High Street within the existing Chimes Shopping Centre in Uxbridge Town Centre.

The site currently comprises a vacant unit which consists of a ground floor level and a half mezzanine floor. The unit was formed following the granting of planning permission ref. 54171/APP/2016/3897 but has never been occupied. The unit floorspace previously formed part of the Debenhams store.

The site is adjoined by 'Millers Tap' to the south, and a vacant unit to the north, which was also formed following the granting of planning permission ref. 54171/APP/2016/3897. Given the site's town centre location, the surrounding area primarily comprises retail and commercial uses.

The site is located within a Conservation area.

The Proposal

The application seeks a Lawful Development Certificate to confirm that the lawful use of the unit is Use Class E. Through establishing this use, it is proposed to convert the property for dentistry use which now also falls within the new Use Class E (formerly D1 use).

Please note that a separate planning application is being submitted for the installation of an additional mezzanine within the unit in addition to a new 'shopfront'.

Planning History

A review of the Council's online planning register has been undertaken and the following application is of relevance:

54171/APP/2016/3897: Change of use of part of Unit 116 from retail (Class A1) to restaurant/Cafe (Class A3) to create four Class A3 units with High Street frontage, as well as external alterations – approved 18/01/2017.

The planning application above included the creation of unit 'HS1' for the purpose of an A3 use, which now falls under Class E. Since its creation, the unit has never been occupied, however.

Given that the A3 use was never implemented, the lawful use of the site remains as A1 (now Class E).

Planning Legislation

Lawful Development Certificate

The legislation and principal guidance applicable to the assessment of the proposal is:

- The Town and Country Planning Act 1990 (as amended) – Section 191; and
- The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No. 757).

Section 191 of the Town and Country Planning Act 1990 (as amended by Section 10 of the Planning and Compensation Act 1991) provides the basis in which any person who wishes to can ascertain and establish whether an existing use of land, or some operational development, or some activity in breach of a planning condition, is lawful.

The burden of proof is firmly on the applicant. The applicant will have to describe the proposal with sufficient clarity and precision to enable the Local Planning Authority (LPA) to understand (from a written description and plans) exactly what is involved in the proposal, and to submit whatever supporting information he wishes to make to satisfy the LPA that a LDC should be granted for the proposal.

Town and Country Planning Use Class Order

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were introduced on 01 September 2020 and making significant changes to the pre-existing system of Use Classes.

Schedule 2 of these regulations have created a new broad 'Commercial, business and service' use class (Class E). This incorporates shops (Class A1), financial and professional services (Class A2), restaurants and cafés

(Class A3), offices and other business uses (Class B1), some non-residential institutions e.g., dental practices and health centres (Class D1), and gyms and sports facilities (Class D2) into a single use class. The new regulation confirms that changes of use within the same class does not constitute development. Article 3 (Use Classes) states:

"Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in –

- a) Part B or C of Schedule 1, or*
- b) Schedule 2,*

The use of that building or that other land, or if specified, the use of part of that building or the other land ("part use), for any other purpose of the same class is not to be taken to involve development of the land."

It should be highlighted that on 17 November 2020, the High Court dismissed campaigners' bid to overturn new permitted development rights and Use Class changes.

Justification

Changes to the Use Classes Order, which were implemented on 01 September 2020, have created a new broad 'Commercial, business and service' Use Class (Class E), as set out in Schedule 2 of the legislation. It is understood that the intention of these changes is to provide greater flexibility between certain uses and provides a more agile planning framework so that high streets and commercial uses can respond to changes in the commercial market, and this has been introduced by the Government as a response to the Covid-19 crisis. This Use Class E includes the former non-residential institutions use (Class D1).

Proposed Use

As previously outlined, the site was previously included within the former Debenhams unit floorspace area. The site however was converted into a separate unit for A3 use purposes following the granting of planning permission reference 54171/APP/2016/3897 in January 2017. However, unit 'HS1' has never been occupied, and the A3 use has therefore not been implemented. As such, the current use is Class E (formerly A1).

The lawful use of the site is confirmed by planning permission ref. 54171/APP/2016/3897 which clearly states that the existing use of the site is A1, which now falls under use Class E.

As such, it is clear from the evidence provided that the lawful use of the property is Class A1 (now Class E(a)).

Under the new Use Class Order, both Use Classes A1 and D1 now fall under Use Class E.

On this basis, there should be no restrictions in relation to the use of the application site for dentistry use purposes, and a change of use planning application is not required.

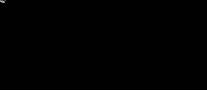
Conclusion

On the basis of the information enclosed, it is considered that the evidence provided confirms that the lawful use of the unit is Class E. There should therefore be no restriction to the proposed dentistry use.

Therefore, we respectfully request that a Lawful Development Certificate is granted, confirming that the proposed dentistry use is lawful, in accordance with Section 192 of the Act.

We trust that the information submitted is sufficient to ensure that the application can be registered and validated and look forward to receiving confirmation in due course. If you require any additional information, please contact me.

Yours faithfully,

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Ryan McTeggart

MPLAN MRTPI

Senior Planner

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