

F.A.O Richard Fidler
Planning Department
Council Offices
Priory Road
Spalding
PE11 2XE

12 June 2015

Dear Mr Fidler,

Springfields Outlet Shopping, Spalding, PE12 6EU – Certificate of Lawfulness for Proposed Use or Development

On behalf of our client, UBS Triton Property Fund (the “Applicant”), please find enclosed an Application for a Certificate of Lawful Development (Proposed) in accordance with Section 192 of Town and Country Planning Act 1990 (as amended). The Application seeks to confirm the lawful development of mezzanine floorspace in units 46, 47 and 48, shopfront alterations and removal of internal partition walls of the Springfields Factory Outlet Shopping Centre, Spalding, PE12 6EU.

The Proposal

An Application for a Lawful Development Certificate is being applied for to give the future tenants the security that the mezzanines to be inserted within units 46, 47 and 48, shop front alterations and the removal of the internal partition walls are lawful without requiring planning permission. The proposed works are being sought to meet the space requirements of new occupiers; providing sufficient storage space on a mezzanine level.

The Existing Planning Permission and the Proposed Works

The Springfields Outlet Shopping centre (Phase II) was approved under planning permission H16/0401/06 dated 22 December 2006. The description of the development granted permission pursuant to that consent is:

“alterations to Springfields Gardens including additional retail floor space, hotel, creation of new gardens and revised car parking”.

The insertion of the three mezzanines is lawful as there is nothing attached to permission H16/0401/06 to prevent the insertion of these mezzanines by way of conditions or signed Section 106 Agreements. The mezzanines do not constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended).

Section 55 of the Town and Country Planning Act 1990

Section 55(1) defines what is considered to be “development”. Such development requires planning permission.

However, section 55(2)(a) states that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

“Section 55(2)(a)

The carrying out for the maintenance, improvement or other alteration of any building of works which:

- (i) affect only the interior of the building; or*
- (ii) do not materially affect the external appearance of the building;*

and are not works for making good war damage or works begun after 5 December 1968 for the alteration of a building by providing additional floor space under ground.”

Accordingly, the general position is that works which only affect the interior of the building are not development and therefore do not require planning permission.

However, the general position set out within section 55(2) is varied by section 55(2A). This states as follows:

“The Secretary of State may in a Development Order specify any circumstances or descriptions of circumstances in which sub-section (2) does not apply to the operations mentioned in paragraph (a) of that sub-section which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.”

The Secretary of State has produced such a Development Order which is contained within the Town and Country Planning (Development Management Procedure) (England) Order 2010 (“DMPO”). Article 3 of the DMPO 2010 sets out the amount specified under section 55(2A) of the Town and Country Planning Act 1990 as 200 square metres for the retail sale of goods.

The insertion of these three mezzanines, each of which is under 200 sq. m. in floor area, is not “development” as defined by section 55 of the Town and Country Planning Act 1990 (as amended). Hence Planning Permission is not required for the mezzanine works.

Nothing in the original Planning Permission (Reference: H16/0401/06) under which the units were constructed prohibits the insertion of this new mezzanine floorspace.

Following the construction of the first two mezzanines (in units 46 and 48, at the two ‘ends’ of the run of three units) the removal of the internal walls between the three units concerned to then create one unit from the three current units would also not be development under Section 55 (2)(a) of the Town and Country Planning Act 1990 (as amended) and hence would not require Planning Permission.

The subsequent insertion of the third mezzanine in the middle unit (which will then be part of the enlarged overall unit created from units 46, 47 and 48) and the ‘making good’ works between the three units and their mezzanines would also not require a grant of Planning Permission, because such works themselves would not involve the creation of in excess of 200 sq. m. of further floorspace.

With regard to the removal of internal walls, works which only affect the interior of a building also do not require planning permission (TCPA 1990 as amended, Section 55). Therefore, so long as the removal of the walls does not create further gross floorspace then that does not require planning permission.

The proposed façade alterations to the units also do not constitute development as defined by Section 55(2)(a) for the same reasons as above; the alterations are internal to the Factory Outlet Centre. Internal is defined as “of or situated on the inside”. Units 46, 47 and 48 are clearly situated on the inside of the Outlet Shopping centre.

Therefore, we respectfully request that a Certificate of Lawfulness for Proposed Use or Development is issued to confirm the insertion of mezzanine floorspace, the shop front alterations and the removal of internal partition walls is lawful without requiring planning permission.

Supporting Information

In addition to the content of this letter, please find enclosed the following information in support of this Application:

- Planning Application Form for Certificate of Lawfulness of Proposed Use or Development;
- Copy of Planning Permission H16/0401/06 and supporting documents;

- Existing Site and Location Plan (Reference: 3841-057-GA01A);
- Proposed Mezzanine Floor Plan (Reference: 3841-057-GA02A);
- Proposed Shop Front Alterations Plan (Reference: 3841-057-GA04A);
- Application Fee for £1,155

I trust this information is sufficient to issue a Lawful Development Certificate for the proposed mezzanine floorspace, shopfront alterations and removal of internal partition walls. However, please do not hesitate to contact either myself or Michael Percival (0161 455 6672; mipercival@deloitte.co.uk) should you require any additional information.

Yours sincerely

Michele Steel
For Deloitte LLP