

Our Ref: 21436/MM
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Date: 21 June 2022

Planning Department,
South Holland District Council,
Council Offices,
Priory Road,
Spalding,
Lincolnshire,
PE11 2XE.

Dear Sir/Madam,

CERTIFICATE OF LAWFULNESS OF PROPOSED USE – PROPOSED USE OF UNITS D & E (AS AMALGAMATED) AS A PETS AT HOME STORE, WINFREY AVENUE, SPALDING

We are instructed by our client Schroder Real Estate Investment Management Limited to submit the enclosed application for a Certificate of Lawfulness of Proposed Use in respect of units D & E (as combined), Winfrey Avenue, Spalding.

The retail units are vacant and were formally occupied by Marks & Spencer Simply Food (unit D) and The Carphone Warehouse respectively (unit E). It is proposed to amalgamate the two units and retain the Class E use to facilitate the occupation of the premises by Pets at Home, who will operate their traditional retail store along with pet grooming salon and a 'Vets4Pet's' veterinary service. The application is submitted under Section 192 of the Town and Country Planning Act 1990 (as amended).

The application has been submitted via the planning portal. Accordingly, the application comprises of the following plans and documents:

- Completed application form;
- Site Location Plan (red line);
- Drawing no. 6659-4 – Existing Floor Plan;
- Drawing no. 6659-10 – Proposed Floor Plan
- The requisite application fee of £231 (plus the planning portal admin fee of £32.20) has been paid online.

Planning background

The application site comprises a building subdivided into two small retail units situated at the junction of Winfrey Avenue and Swan Street in Spalding Town Centre. The units extend to circa 770 sq m in total and were formerly occupied by Marks and Spencer Simply Food and The Carphone Warehouse.

The units were built pursuant to a planning permission granted on 17 February 2004 for the demolition of a petrol filling station and the erection of a single storey retail unit (ref: H16-1458-03) (**the 2004 Planning Permission**). A copy of the decision notice is attached at **Appendix 1**.

There are no conditions, which preclude the amalgamation of the retail units or that would curtail or otherwise restrict the normal operation of the Use Classes Order. Accordingly, the following paragraphs will demonstrate that the unit (as amalgamated) may therefore be lawfully used for any purpose within Class E in whole or in part, in any combination, and this would be sufficient to allow Pets at Home to trade from the unit.

Application proposal

This certificate application seeks confirmation that the amalgamation of the two units into one single retail unit for occupation by Pets at Home for use as retail store along with an ancillary pet grooming salon and a 'Vets4Pets' veterinary service is lawful in the context of the 2004 Planning Permission.

Pets at Home are the UK's leading pet care business, providing pet owners with everything they need to be able to look after their pet – from food, toys and bedding, and grooming services, right the way through to first opinion veterinary care.

The proposed store will provide a pet grooming facility and a vet service, which are part of the overall offer of a Pets at Home store. The in-store 'Vets4Pets' area provides general animal health treatments and welfare advice to emergency medical procedures and offers the full range of veterinary services. The facility will comprise three consulting rooms where general pet care advice is given and animals receive basic preventative medicine and treatments (such as worming or flea treatments). There will be a small operating theatre to undertake small scale procedures such as spaying and X-raying. The facility will also include laboratory and pharmacy areas.

The store will also accommodate a Groom Room salon which offers treatments across a range of services to enhance the well-being of dogs. These include full dog grooming, baths, microchipping and nail clipping services.

The grooming and veterinary services would only be accessible via the main Pets at Home store entrance, and there will be no separate access or egress points for customers. Accordingly, the operating hours of each service will be in line with the opening of the retail floor area.

Photographs of the Pets at Home retail concept are attached at **Appendix 2**.

The Lawfulness of proposed use

Section 55 of the Town and Country Planning Act 1990 (the Act) defines the meaning of development. Works that only affect the interior of buildings are not considered to comprise 'development' and therefore do not require planning permission. Accordingly, the removal of an internal wall between the unit D and unit E Section 55(1) defines development as "*the making of any material change in the use of any buildings or other land*". Section 55(2)(f) states that "*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*" shall not be taken for the purposes of the Act to involve development.

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into effect on the 1st September 2020. The regulations include retail uses within a new Class E, which also includes other uses such as restaurants, financial and professional services, medical and health services, offices, indoor sports and "*any other services which it is appropriate to provide in a commercial, business or service locality*."

The lawful use of the application site is retail which would fall within Use Class E of the Use Classes Order, in accordance with Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. The proposed use is a Pets at Home retail store along with pet grooming and veterinary services within the building. All of these elements provide a service to visiting members of the public. It is exactly the sort of concept, which Class E is designed to cover.

The new Class E allows for a mix of uses to reflect changing retail requirements. It will allow a building to be used flexibly by having a number of uses taking place concurrently.

Accordingly, the proposed use is also a Class E use. For this reason, the proposal does not constitute development and therefore does not require planning permission.

We trust that officers have sufficient information to enable a favourable determination of this application. However, should officers have any queries and/or require clarification on any point, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Mike Mills', written in a cursive style.

MIKE MILLS
Director

Enc.