



Our Ref: 22-00983

07 June 2022

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Eastleigh Borough Council
Eastleigh House
Upper Market Street
Eastleigh
SO50 9YN

Dear Sir / Madam,

Re: Application for Lawful Development Certificate to confirm that the proposed dentistry use at 60 Market Street, Eastleigh, SO5 5RB 1BL is lawful.

Rapleys LLP have been instructed to submit an application for a Lawful Development Certificate (LDC) on behalf of {my}dentist ('mydentist') 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-11309016) on 07 June 2022 and is accompanied by the following supporting information:

- Site Location plan: (Ref. 21202WB-CA-S1-00-DR-A-120_01-S3-A-SiteLocationPlan);
- Proposed site plan: (Ref. 21202WB-CA-B1-ZZ-DR-A-220_05-B-C-ProposedBuildingPlans); and
- Existing site plan: (Ref. 21202WB-CA-B1-ZZ-DR-A-220_03-B-B-ExistingBuildingPlans).

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

Site and Surroundings

The site comprises a 637sqm Class E unit (formerly A1) located at ground floor level on Market Street within Eastleigh. The unit was previously occupied by 'Peacocks'.

Swan Shopping Centre itself is located to the south end of Market Street. The surrounding area primarily comprises retail and commercial use units, such as Sainsbury's, Boots, Costa Coffee and Superdrug.

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.

Planning History

A review of the Council's online planning register has been undertaken. However, no applications of relevance to the site have been found.

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 gymnasiums 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 € includes the former non-residential institutions use (Class D1).

60 Market Street, Eastleigh, Southampton, SO50 5RB.

The site is located on Market Street, Eastleigh and was previously occupied by 'Peacocks'.

No planning history is available on the Councils website which indicates the lawful use of the site.

However, historic photography (google street view) of the site (see **Appendix 1**), clearly demonstrates that the unit has been occupied by Peacocks during 2008-2017 (where the historic photography ends). Therefore, it can be concluded that the sites land use throughout the last 14 years has consisted of Class E(a) (formerly A1).

In addition, the historic business rates associated with the unit is attached at **Appendix 2** of this letter. The information which has been obtained from the Valuation Office Agency Website and is applicable from 2010 to present shows that the site is classified as a 'shop and premises'. This evidence confirms that the site has been operating under a Class E use since 2010.

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 conversion of the retail unit for 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,



Matthew Kettleborough
BSc MSc (Hons)
Planner
Matt.kettleborough@rapleys.com





APPENDIX 1 - HISTORIC PHOTOGRAPHY

Appendix 1: Historic Photography: 60 Market Street, Eastleigh



Figure 1: Historic photo of 60 Market Street, Eastleigh from 2008. The site is established as Planning Use Class A1 (Now under Class E).



Figure 2: Historic photo of 60 Market Street, Eastleigh from 2012. The site is established as Planning Use Class A1 (Now under Class E).



Figure 3: Historic photo of 60 Market Street, Eastleigh from 2015. The site is established as Planning Use Class A1 (Now under Class E).



Figure 4: Historic photo of 60 Market Street, Eastleigh from 2016. The site is established as Planning Use Class A1 (Now under Class E).



Figure 5: Historic photo of 60 Market Street, Eastleigh from 2019. The site is established as Planning Use Class A1 (Now under Class E).



APPENDIX 2 – VALUATION RECORDS

Appendix 2: Historic Business Rates: 60, Market Street, Eastleigh, Hants, SO50 5RB

Property

**60, Market Street, Eastleigh, Hants,
SO50 5RB**

Valuation

[Similar properties](#)

Valuation

Previous rateable value (1 April 2010 to 31 March 2017)

£65,500.00

This is not the amount you will have paid.

[Hide all sections](#)

Property details

[Hide](#)

Description	Shop and premises
Local authority	Eastleigh
Local authority reference ?	700150951308
Base rate	£475.00
Basis of measurement ?	NIA
Transitional relief certificate issued	No
Valuation scheme reference ?	120679
Special category code	249G
Effective date ?	1 April 2010
List alteration date ?	21 August 2012
Appeals	0

How the valuation was calculated

[Hide](#)

Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value ?
Ground	Retail zone a	66.18	£451.25	£29,864.00
Ground	Retail zone b	66.18	£225.63	£14,932.00
Ground	Retail zone c	66.18	£112.81	£7,466.00
Ground	Remaining retail zone	115.96	£56.41	£6,541.00
First	Internal storage	278.01	£22.56	£6,272.00
First	Mess/staff room	12.8	£22.56	£289.00
First	Internal storage	12	£22.56	£271.00
First	Office	12.2	£22.56	£275.00
Total		629.51		£65,910.00

Total value **£65,910.00**

[More about how business properties are valued](#)

Property

**60, Market Street, Eastleigh, Hants,
SO50 5RB**

Valuation

[Similar properties](#)

Valuation

Current rateable value (1 April 2017 to present)

£55,500.00

This is not the amount you will pay.

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Property details

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Description	Shop and premises
Local authority	Eastleigh
Local authority reference ?	700150951308
Base rate	£400.00
Basis of measurement ?	NIA
Transitional relief certificate issued	No
Valuation scheme reference ?	345546
Special category code	249G
Effective date ?	1 April 2017

How the valuation was calculated

[Hide](#)

Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value ?
Ground	Retail zone a	66.18	£380.00	£25,148.00
Ground	Retail zone b	66.18	£190.00	£12,574.00
Ground	Retail zone c	66.18	£95.00	£6,287.00
Ground	Remaining retail zone	115.96	£47.50	£5,508.00
First	Internal storage	278.01	£19.00	£5,282.00
First	Mess/staff room	12.8	£19.00	£243.00
First	Internal storage	12	£19.00	£228.00
First	Office	12.2	£19.00	£232.00
Total		629.51		£55,502.00
Total value				£55,502.00

[More about how business properties are valued](#)