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30 June 2017

Planning Services
Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF

Dear Sir

**BOGNOR-UNIT E, ARUN RETAIL PARK
PLANNING PORTAL REF. NO. PP- 06192332**

On behalf of the BBC Pension Trust Ltd (c/o Orchard Street Investment Management) we submit an application for a Certificate of Lawfulness of Proposed Use or Development under Section 192 of the Town and Country Planning Act 1990 (as amended) to confirm that the lawful use of Unit E includes retail (Class A1).

The application is submitted via the Planning Portal and includes:

- Completed application forms
- Site location plan
- Planning Permission BE/150/15/PL
- Approved/Existing Block Plan
- Planning application fee of £192.50

Factual information

Section 192 (1) states:

- 1) *If any person wishes to ascertain whether –
a) any proposed use of buildings or other land; or
b) any operations proposed to be carried out in, on, over or under land,*

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.'

Section 192 (2) states:

'If, on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect...'

Background

Planning permission was originally granted in May 1989 for "5,000 sqft fast food unit, erection of 2.5 metre high wall along south boundary of Sunnybank" (BE/15/89).

Condition 3 of the permission stated:

“Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, the proposed building shall be used only for the purposes falling within Class A3 as defined in the Town and Country Planning (Use Classes) Order 1987”

In December 2015, full planning permission was granted for the *“conversion of existing drive-through canopy of existing unit into internal space, reconfiguration of unit to create 2 No. Class A3 pod units and relocation of existing cycle parking”* (BE/150/15/PL)

Condition 2 lists the approved drawings.

The decision notice does not include a condition restricting the use of the 2 No. units to Class A3 use only.

Works to the building to create 2 No. Class A3 units was completed on 7 September 2016. Unit F is occupied by Burger King. The application site, Unit E, is vacant.

The applicants have been marketing the unit. The proposed tenant is the Unlimited Company <http://www.theunlimitedcompany.co.uk/>. We would invite you to visit the Company web site. The Unlimited Company retail a wide range of premium daily living aids and mobility products and operate under a Class A1 retail use.

The Case for a Certificate

The operable planning permission is BE/150/15/PL granted December 2015. The permission has been implemented. That permission is an independent, free-standing permission governed only by any conditions attached to that permission.

The planning permission grants planning permission for Class A3 use. There are no conditions limiting the use of the units to Class A3. Therefore, the provisions of the Town and Country Planning (General Permitted Development) Order are engaged.

Part 3, Class A of The Town and Country Planning (General Permitted Development) Order permits the change of use from Class A3 to Class A1 or Class A2 use.

- A. Development consisting of a change of use of a building from a use falling within Class A3 (restaurants and cafes), A4 (drinking establishments) or A5 (hot food takeaways) of the Schedule to the Use Classes Order, to a use falling within Class A1 (shops) or Class A2 (financial and professional services) of that Schedule.*

It is the case therefore that it would be lawful for Unit E to be used for Class A3, A2 or A1 purposes.

Conclusions

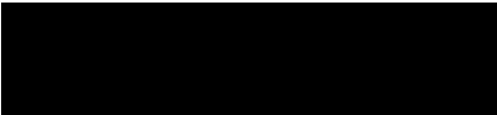
For the reasons set out above we conclude:

- 1) Planning permission BE/150/15/PL is relevant to Unit E.
- 2) Planning permission BE/150/15/PL does not limit the use of Unit E to Class A3 use or remove the provisions of the General Permitted Development Order.

Accordingly, we consider that Unit E may lawfully be used for A1 purposes and that a Certificate of Lawfulness under S192 should be granted.

We trust that you have sufficient information to issue a Certificate of Lawfulness. However, please contact me on 0207 866 8607 or 07984 458485 should you require any further information.

Yours sincerely



Craig Blatchford MRTPI
Partner-Planning