

<u>APPLICATION NO:</u>	23/00165/CLD	<u>CASE OFFICER:</u>	Reece Black
<u>WARD:</u>	Whitefield	<u>PARISH:</u>	
<u>LOCATION:</u>	The Learning Shop , 11D St Chads Parade, Kirkby Town Centre		
<u>PROPOSAL:</u>	CERTIFICATE OF LAWFUL DEVELOPMENT FOR PROPOSED CHANGE OF USE FROM KNOWSLEY WORKS SHOP (USE CLASS E) TO A NAIL SALON (USE CLASS E)		

Site Description

The application relates to a unit on St Chads Parade, Kirkby. The unit this application relates to forms one unit within a local shopping precinct. The unit is located within two lines of shops and services.

The building is currently dormant.

Proposal

The application has been submitted under S192 of the Town and Country Planning Act (The 1990 Act). The application seeks determination on whether a former A1 (shop) use can lawfully be used by the new owner for any use that falls within Use Class E (Commercial, Business and Service).

The Application Form states that the description of operations is only for the internal refit works. The proposal stipulates a Change of Use from the Knowsley Works Financials (dormant) to a nail bar/salon. The working hours have not been specified but it states that it will be typical high street shop working hours Monday to Sunday (within reason).

The grounds for application states that the Change of Use to a beauty/nail salon fits within the surrounding sites/location and is a use typically found in a town centre.

Consultations

There is no statutory requirement to consult third parties including parish councils or neighbours.

Planning History

APP. NO:	16/00209/FUL
PROPOSAL:	INSTALLATION OF NEW SHOP FRONT AND ROLLER SHUTTERS
DECISION:	PER
DECISION DATE:	10 May 2016

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Legal Context

The key statutory framework for Lawful Development Certificates and their determination is set out in the sections 191-193 of the Town and Country Planning Act (as amended).

The application is made under S192 of the Town and Country Planning Act 1990 (as amended). An application under S192 seeks to establish whether:

- a) Any proposed use or building or land; or
- b) Any operations to be carried out in, on, over or under land,

Would be lawful.

S192 (2) sets out that if an application under this section, the Local Planning Authority are provided with information satisfying 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.

It is therefore not an application for planning permission. Instead, it is a legal determination based upon evidence and facts presented by the applicant as to whether the stated activity would be lawful. In such cases, the Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Issues such as the planning policies do not fall within the consideration as the decision is based on fact and not on policy grounds and therefore planning merits are not relevant at any stage in this particular application process.

Class E was introduced in September 2020 (The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020) and brackets together with a wide range of uses, all now considered to be in the same Use Class.

Schedule 2, Part A of the Use Classes Order states:

Use, or part use, for all or any of the following purposes-

- (a) For the display or retail or sale of good, other than hot food, principally to visiting members of the public,
- (b) For the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,
- (c) For the provision of the following kinds of services principally to visiting members of the public-
 - I. Financial services,
 - II. Professional services (other than health or medical services), or
 - III. Any other services which it is appropriate to provide in a commercial, business or service locality,
- (d) For indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
- (e) For the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of consultant or practitioner,
- (f) For a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,

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(g) For-

- I. An office to carry out any operational or administrative functions,
- II. The research and development of products or processes, or
- III. Any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smells, fumes, smoke, soot, ash, dust or grit.

Officer Appraisal

The applicant contends in the submission that the previous use of the premises, before becoming dormant, was a service premises of Knowsley Works Financials. There are no dates or details outlined within this submission regarding when the premises was permanently closed and left vacant. The Knowsley Council website outlines that this service is for the use of supporting local residents into employment through paid employment, training, skills development etc.

This would now fall under Use Class E (Commercial, Business and Service) as introduced in September 2020 and therefore, planning permission is not required to use the premises for any use within the Use Class E.

The applicant has indicated that the proposed use of the premises would be for a nail and beauty bar/salon and that the purpose of this application is to affirm that the proposed change of use would be within the guidance of the Town and Country Planning Act (Use Classes) and to establish that this would be lawful.

The Knowsley Council website also states that the current address for the service of Knowsley Works, is now located at The Kirkby Centre, Norwich Way, Kirkby, L32 8XY and therefore, no longer operates at the unit in question. There is no information held by the Local Planning Authority or Knowsley Council that conflicts with the relocation of Knowsley Works or that the application unit is not in a dormant and vacant status.

The statutory framework covering "lawfulness" for Lawful Development Certificates is set out in section 191(2) of the Act. In summary, lawful development is development in which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

Under S171b of the Town and Country Planning Act an unlawful use of a building can only become lawful if it has operated continually for a period of 10 years or more.

The planning history for the unit establishes that the Learning Shop is also known as Knowsley Works. Under 16/00209/FUL which was for installation of new shop front and roller shutters, permitted in May 2016, shop front signage of the existing signage of 'Knowsley Works Plus' is displayed in the submitted existing and proposed elevations of the existing elevations of the premises. Under the same application, the Application Form states that the address is The Learning Shop, located at the same address as the relevant unit address of this application, for 11, St Chads Parade. This establishes that the Knowsley Works has been used since at least 2016 and there are no records to indicate that any other use, other than the services listed in (c) of Schedule 2, Part A of the Use Classes Order, has since occupied the premises up until it became dormant.

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In assessing this application, consideration also needs to be given to whether the premises would fall within Class F.2 (Local Community Use) of the Use Classes Order.

Class F.2 Local Community Use as-

- a) A shop mostly selling essential goods, including food, to visiting members of the public in circumstances where –
 - I. The shop's premises cover an area not more than 280 square metres, and,
 - II. There is no other such facility within 1000 metre radius of the shop's location,
- b) A hall or meeting place for the principal use of the local community,
- c) An area or place for outdoor sport or recreation, not involving motorised vehicles or firearms,
- d) An indoor or outdoor swimming pool or skating rink.

This comprises a category dedicated to protecting local community uses. The proposed change of use would not conflict with any of the criteria of Class F.2 Local Community Use.

As from 1 September 2020, given that the building is considered to have recently been used for a use falling within Class E. It is considered that Change of Use to another use within Class E would be allowed without the need for planning permission.

The effect of granting a certificate is not to grant planning permission, in this instance, a certificate would confirm that the use of the premises for the proposed use would not amount to development. The main consideration when determining this application for a Lawful Development Certificate for a Proposed Use is whether the resultant use would be considered a material change.

Conclusion

It is concluded that the proposed use of the premises, for use appropriate to provide in a commercial, business or service locality and service of a nail salon/bar would not be a materially different from that of the previously known and provision of professional services and that a material change would not take place. The lawful use of premises is Use Class E and there are no known planning records that indicate that the premises are restricted by planning conditions restricting the use of these premises. Change of Use to another use within Class E would be allowed without the need for Planning Permission.

Recommendation

- 1) Approve the requested Certificate of Lawfulness under Section 192 of the Town and Country Planning Act 1990.

The established use has been subsumed within Class E of Schedule 2, Part A of the Town and Country Planning (Use Classes) Order 1987 (as amended) and therefore the use of the premises for any use within Class E would be a lawful use of the premises.

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SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
18/05/2023	C39/201	-	PROPOSED LAYOUTS
21/03/2023	-	-	LOCATION PLAN

Signed Case Officer¹:

Reece Black

**Signed Authorising
Officer²:**

K Foster

Date:

12 July 2023

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed