

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00318/CPL

CASE OFFICER

Majid Mir

DETERMINATION DATE 29.05.2024

Address: Stonefield Street Surgery Stonefield Street Milnrow OL16 4JQ

Proposal: Application for a certificate of lawfulness for the proposed change of use from Doctor's Surgery (Use Class E) to Children's Day Nursery (Use Class E)

PUBLICITY	Weekly list expired?	N/A	Site notice expired?	N/A
	Neighbour letters expired?	N/A	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N/A

RECOMMENDATION	GRANT
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CHECKED AND SIGNED OFF BY: RG

DATE: 29 May 2024

SITE

The application relates to Stonefield Surgery. The surgery has recently closed operation and has been relocated. The surgery is located within a residential area of Milnrow.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed use of the building and site for the purpose of children's day nursery.

The applicant has requested confirmation that the change of use is lawful given both uses are within Class E.

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Burden of Proof

The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability (PPG Paragraph: 006 Reference ID: 17c-006-20140306)

LEGISLATION

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended)

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ("the UCO Amendment Regulations")

RELEVANT SITE HISTORY

11/D54838	Single Storey Extension To North Elevation Of Premises. Decision: Approved.
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06/D47075	Installation Of Portable Building In Grounds Of Doctor's Surgery. Decision: Approved.
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94/D31153	Extensions To Existing Doctors Surgery. Decision: Approved.
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CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the building proposed to change use in addition to the use class which the proposed use would fall in to. Where the existing and proposed use do not fall within the same use class, it is necessary to subsequently consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision is based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

The Use Classes Order was updated and amended on the 1st September 2021 and the former D1 Class (along with a number of other use classes) has been replaced by a new use class, Class E. It is noted that uses within Use Class D1 have been split between Use Class E (E(e-f)) and Use Class F1 (F1). Use Class E includes;

- ☐ E(a) Display or retail sale of goods, other than hot food
- ☐ E(b) Sale of food and drink for consumption (mostly) on the premises
- ☐ E(c) Provision of:
 - o E(c)(i) Financial services,
 - o E(c)(ii) Professional services (other than health or medical services),
or
 - o E(c)(iii) Other appropriate services in a commercial, business or service locality
- ☐ E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- ☐ **E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)**
- ☐ **E(f) Creche, day nursery or day centre (not including a residential use)**

- ☐ E(g) Uses which can be carried out in a residential area without detriment to its amenity:
- o E(g)(i) Offices to carry out any operational or administrative functions,
 - o E(g)(ii) Research and development of products or processes
 - o E(g)(iii) Industrial processes

The application site, Stonefield Street Surgery, presently falls under the new Use Class E as a medical or health service. The application states that the proposed use would be as a children's day nursery. A day nursery also falls under Use Class E.

No plans have been provided with the application. The application form has confirmed that no building or other operations will be taking place. The applicant has confirmed that no external work is proposed. As such the application is assessed on the change of use from a doctor's surgery to a children's day nursery.

The application form states that the day nursery will be open between 07:30 and 18:00 on weekdays. It is noted that the existing opening times for the surgery are 07:30 till 18:30 and therefore the proposed times would be within the existing operating times. Furthermore, it is noted that there is no history available in regards to restriction on operating times on the site.

Based on the information submitted with the application, with a determination made on solely the change of use of the site, the LPA is satisfied that the proposed use would fall within the scope of use class E and as such the premises would be retained within the same use class. Therefore as the existing and proposed use would be within the Use Class E, it is considered that the proposal would not comprise an act that requires planning permission.

RECOMMENDATION – Grant

The proposed children's day nursery would not change the existing use class of the site and therefore the proposal would not result in a material change of use of the site. The proposed use therefore would be retained within Use Class E of The Town and Country Planning (Use Classes) Order 2020 (as amended) and as such would not represent development as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended).

Notes for Applicant:

For the avoidance of doubt, this decision notice relates to the following plans and documents:-

- Location Plan
- Letter dated 28 March 2024
- Application form
- General Layout. Drawing no: D2 002