

Officer Report

Case Reference: PL/2026/0024
Location: ROCHDALE MERIT, 585 OLDHAM ROAD, ROCHDALE, OL16 4SU
Proposal: Application for a certificate of lawfulness for the proposed change of use from office (Class E) to day nursery (Class E)
Recommendation: Approve
Officer: Luke Rigby

SITE

The application site relates to 'Rochdale Merit', located at No. 585 Oldham Road and currently in use as offices. The application site is located in Rochdale.

PROPOSAL

The application seeks a Lawful Development Certificate for the proposed use of the building and site as a day nursery (Use Class E)

The applicant has requested confirmation that the change of use is lawful given both the proposed use and existing (offices) are within Class E of the Use Class Order.

RELEVANT HISTORY

15/00517/FUL - Change of use from offices to D1 non residential education facility. Withdrawn

PL/2025/1220 - Erection of single-storey off building on land at rear of car park at existing premises. Application Permitted

RELEVANT PLANNING POLICY

National Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

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”)

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)

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

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

ASSESSMENT

Section 55 of the Town and Country Planning Act 1990 (As Amended) states that

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 building or other land

In respect of Changes of Use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 states *"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"*

The application proposes the change of use of the building from offices to a day nursery – both uses fall within Use Class E, therefore, the assessment of whether the change of use is lawful therefore relies on an assessment as to whether the use of the existing building lawfully falls within Class E of the Use Class Order.

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-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:
 - E(c)(i) Financial services,
 - E(c)(ii) Professional services (other than health or medical services), or
 - 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:
 - **E(g)(i) Offices to carry out any operational or administrative functions,**
 - E(g)(ii) Research and development of products or processes
 - E(g)(iii) Industrial processes

As above, the existing use of the application site is as a offices, falling within Use Class E(g)(i), and the proposed use would be a day nursery falling within Use Class E(f), therefore, it falls to be determined whether the existing office use of the building is lawful.

The submitted information includes reference to a financial agreement indicating the landlord's view that the premises are in lawful office use (Class E(g)(i)); however, this document is not determinative in itself.

Independent Council records, including GIS data and information submitted as part of a 2015 planning application (LPA ref. 15/00517/FUL), confirm that the site has been used as offices since at least 2015. Officers therefore consider the existing use to fall lawfully within Class E.

Notwithstanding this conclusion, even if the use were not already established within Class E, the duration of the office use, evidenced as having operated for well in excess of the relevant 10-year time period, would render the use lawful by virtue of the passage of time.

Having regard to the above, the proposed use of the building as a day nursery falling within Class E would not constitute development and would therefore be lawful. As discussed above, amenity nor design fall to be considered, however the application submission indicates that no external changes to the building are proposed which would constitute development in and of itself.

The submitted floor plans indicate the installation of a gate within the application site, however no information has been given in relation to this and therefore this decision in itself relates to the change of use only and not the erection of the gate which may or may not require permission.

RECOMMENDATION: GRANT UNCONDITIONALLY

Recommendation: Approve

Approval Reason(s) (1)

- 1 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).

Informatives (1)

- 1 For the avoidance of doubt, this decision notice relates to the following plans and documents:
 - Application Form
 - DWG No. 2292/1 (Proposed Floor Plans and Site Plan)
 - DWG No. PP-14613169v1 (Location Plan)
- 2 This certificate relates solely to the change of use described in the description of development. The gate shown on DWG No. 2292/1 has not been assessed. The applicant should seek separate advice on whether any works to erect this gate require permission from the Local Planning Authority.