

Officer Report

Case Reference: PL/2026/0377
Location: 665 Edenfield Road, Rochdale, OL11 5XE
Proposal: Application for a certificate of lawfulness for a proposed change of use from Use Class E (c)(iii) to Use Class E (c)(ii)
Recommendation: Approve
Officer: Luke Rigby

SITE

The application site consists of the 'Hair of the Dog' Grooming Salon in Norden.

PROPOSAL

The application seeks to ascertain whether the use of the building as a solicitors (Use Class E(c)(ii)) is lawful. No alterations to the building are proposed, however the application is submitted in tandem with an application for advertisement consent (PL/2026/0318)

RELEVANT HISTORY

PL/2026/0318 – Internally illuminated fascia sign. Pending Consideration

98/D35963 – Change Of Use Of Ground Floor Premises From Car Spares And Accessories To Dog Grooming Salon And Retail Pet Accessories. Grant subject to conditions.

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 (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 seeks to ascertain whether the use of the building as a solicitors, falling within Use Class E(c)(ii) is lawful without the grant of planning permission. 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 Class A (along with a number of other use classes) was revoked and replaced with a new Use Class, Class E. 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 dog groomer; this would have historically been Use Class A1, however now falls within Use Class E(c)(iii) following the revocation of Use Class A. The proposed use would be a solicitors, falling within Use Class E(c)(ii), therefore, it falls to be determined whether the existing use of the building as a dog groomers is lawful.

The application was granted Planning Permission for the Change Of Use to a dog grooming facility in 1998 under application reference 98/D35963. It has operated as such in continuity since this date. Therefore, the use of the building within Use Class E(c)(iii) is therefore considered to be lawful. A change to Use Class E(c)(ii) would not constitute development and therefore would not require the benefit of planning permission. There were no conditions attached to the permission in 1998 which revoked the ability for the site to change freely between a different use within the same class.

It is pertinent to note, however, that there was a condition attached to the 1998 permission which restricts the hours that the building can be used for trade to the hours of 8:30 – 18:30 Monday to Saturday and at no point on Sundays. This condition is worded such that it is carried with the land rather than the use of the building as a dog groomer. Such condition therefore remains in effect and applies to the use as a solicitors.

It is also pertinent to note that this decision relates to the ground floor of the unit only. The first floor of the unit was not covered by the 1998 Change of Use, and no details have been provided to the Local Planning Authority on what the use of the first floor is, or whether this application relates to the first floor.

Recommendation: Approve

Approval Reason(s) (1)

- 1 The proposed solicitors 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 documents:
 - Application Form
 - DWG No. HC-26288-(20)-01 (Existing and Proposed Elevations)
 - DWG No. HC-26288-(60)-02 (Existing and Proposed Site Plans)
 - DWG No. HC-26288-(60)-01 (Location Plan)
- 2 This decision relates solely to the use of ground floor of the unit. The external alterations shown on submitted plan HC-26288-(20)-01 are not covered by this decision, nor is the use of the first floor of the building. The applicant should seek further advice on whether the permission of the Local Planning Authority would be required for these.
- 3 The applicant is reminded that Condition 3 of Planning Permission 98/D3596 is still in effect. The building therefore may not be open for trade outside of the hours of 8:30 – 18:30 Monday to Saturday, and at any time on Sunday.