

Companion Care (Services) Limited
c/o Mr P Marsden
33 Margaret Street
London
London
W1G 0JD
United Kingdom

RECEIVED

01.08.2014

Support Services

Your Ref: PP-03373839

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by Section 10
of the Planning and Compensation Act 1991)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
ORDER 2010: ARTICLE 35

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

PROPOSAL: Application for certificate of lawfulness for the proposed use of part of the
retail warehouse as an ancillary pet care facility.

LOCATION: Pets At Home Unit 3 Harrogate Retail Park Oak Beck Road Harrogate North
Yorkshire HG1 3HT

APPLICANT: Companion Care (Services) Limited

The Harrogate Borough Council hereby certify that on 15 May 2014 the
use/operations/matter described in the First Schedule to this certificate in respect of the
land specified in the Second Schedule to this certificate and edged red on the plan attached
to this certificate, would have been lawful within the meaning of Section 192 of the Town
and Country Planning Act 1990 (as amended), for the following reason(s):

- 1 The extent of use indicated on drawing 5626/11 dated 20 March 2014 is de minimis
in relationship to and relationship with the existing retail use of the property.

Signed:

G Bell

G Bell
Chief Planner

Date of Decision: 02.07.2014

Date Decision Issued: 03.07.2014

First Schedule:

Application for certificate of lawfulness for the proposed use of part of the retail warehouse as an ancillary pet care facility.

Second Schedule:

Pets At Home Unit 3 Harrogate Retail Park Oak Beck Road Harrogate North Yorkshire HG1 3HT

Notes

1. This certificate is issued solely for the purposes of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use/operations/matter specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use/operations/matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use and/or operations/matter which is/are materially different from that described or which relates to the other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

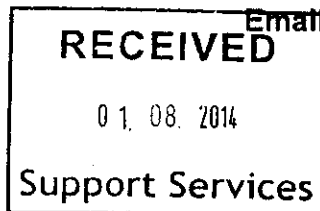
Companion Care (Services) Limited
C/O Philip Marsden
Savills (UK) Limited
33 Margaret Street
London
W1G 0JD

Ask for: Claire Buckley
Direct Dial: 01702 318096

Email: planning.applications@rochford.gov.uk

My Ref: PA/14/00058/PREAPP

Your Ref:



1st August 2014

Dear Sir/Madam

Application No: **PA/14/00058/PREAPP**
Applicant: **Companion Care (Services) Limited**
Site Location: **Unit 1 Airport Retail Park Southend Airport Rochford**
Proposal: **Pre-application request for Proposed use of part of retail warehouse as an ancillary pet care, treatment and grooming facility.**

Thank you for your pre-application enquiry received on 24th June 2014.

Proposal

Proposed use of part of retail warehouse as an ancillary pet care, treatment and grooming facility without the need for planning permission.

Relevant Planning History

02/00570/FUL - Sub-Divide Existing Retail Unit into Two. Introduce New Entrance Portico. APPROVED

07/00707/FUL - Creation of a Mezzanine Floor Providing an Additional 245sq.m of Retail Floor space. APPROVED.

Proposal Consideration

The informal view is that a Lawful Development Certificate (LDC) is likely to be granted for the proposal as an ancillary use to the existing retail use.

This conclusion has been reached for the following reasoning:

1. The nature of the proposed use is not dissimilar to the current use – pet care and grooming are very much activities that could be considered "ancillary" to a large pet store
2. The fact that one cannot functionally operate without the other due to opening hours
3. All the works are internal and part of an overall planning unit
4. It will only represent 21% of the gross internal floor space

Conclusions

The informal view is that a Lawful Development Certificate (LDC) is likely to be granted for the proposal as an ancillary use to the existing retail use.

I hope the information supplied has been of some assistance to you although you are be advised that the information supplied within this letter is the informal opinion of an officer only and does not represent the opinion of the Council as a whole.

Yours faithfully,

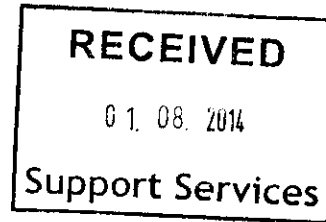


Claire Buckley
Senior Planner (Development Management)

01 August 2014
L 140801 SAV Planning.docx



Head of Planning
Planning Services
Rochford District Council
Council Offices
South Street
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SUBMITTED VIA THE PLANNING PORTAL: PP-03534041

Dear Sir or Madam

**SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
APPLICATION FOR A CERTIFICATE FOR THE PROPOSED USE OF PART OF RETAIL WAREHOUSE
AS AN ANCILLARY PET CARE, TREATMENT AND GROOMING FACILITY
PETS AT HOME, AIRPORT RETAIL PARK, ROCHFORD ROAD, SOUTHEND AIRPORT, SOUTHEND-ON-
SEA, SS2 6FW
COMPANION CARE (SERVICES) LIMITED**

PLANNING PORTAL REF: PP-03534041

Introduction

We write on behalf of our client, Companion Care (Services) Ltd, to apply for a Certificate, under Section 192 of the Act, to confirm that the proposed use of part of the premises for a pet care, treatment and grooming facility at mezzanine level, is lawful.

In accordance with the Town and Country Planning (Development Management Procedure) Order 2010 (as amended), the application comprises the following documents:

- This covering letter;
- The completed application forms duly signed;
- Drawing Ref: CC/ARP/SLP – 'Site Location Plan';
- Drawing Ref: 5618/04 – 'Existing ground floor and mezzanine floor layout plans';
- Drawing Ref: 5618/10 D – 'Proposed ground floor and proposed mezzanine layout plans and areas';
- Product Range Summary;
- Correspondence from Claire Buckley, reference number: PA/14/00058/PREAPP; and
- Certificates issued at: St Austell, Port Talbot and Harrogate.

The application has been submitted via the Planning Portal (Ref: PP-03534041) and therefore a cheque, made payable to 'Rochford District Council', for £192.50 has been submitted separately by post.

Prior to submission of this application, we discussed the proposal with Claire Buckley, a Planning Officer at the Council, who confirmed that the proposal is classed as an ancillary use and therefore does not require planning permission. We are submitting this LDC application to formalise this position for our client's records.

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

Savills (UK) Limited, Chartered Surveyors. Regulated by RICS. A subsidiary of Savills plc. Registered in England No. 2605138.
Registered office: 33 Margaret Street, London, W1G 0JD





The Application Site

The application site is Pets at Home, Airport Retail Park in Southend-on-Sea, which is currently occupied by Pets at Home. The unit measures approximately 1,065 sq. m (GIA) and is located in an established destination for large format retailing, located just off the Harp House Roundabout which links the main arterial routes with Southend Airport and the Retail Park. Other retailers at Airport Retail Park include Dreams, Argos, Home Bargains, Sports Direct and McDonald's.

The Proposed Use

As set out above, this application seeks confirmation that the proposed Companion Care facility, which is part of the overall offer of a Pet at Home store, can be operated at mezzanine level from the Unit. The Companion Care use is ancillary to the primary retail use of the building and accordingly, it does not require planning permission.

This application seeks formal confirmation of the lawful nature of the proposed use which is described in more detail below.

Lawful Nature of the Proposed Use

Companion Care is part of the Pets at Home Group. It is a service industry, offering pet care, treatment and grooming facilities for pets, and forms an integral part of the overall product range and services offered by Pets at Home in its larger format stores.

The facility will comprise three consulting rooms where general pet care advice is given, animals receive basic preventative medicine and treatments (such as worming or flea treatments), and small scale procedures such as spaying and X-raying are carried out. The facilities also provide for dog and cat grooming.

As the Council is aware, Pets at Home is the UK's largest retailer of pets and pet products, which includes a wide range of pet care goods. We attach a copy of the product list for Pets at Home, annotated to show those goods that are linked with the care of pets. Given that Pets at Home is the predominant retailer of pets and related goods in the retail warehouse sector, it largely defines the nature of the large format, pet retailing market within the UK, which can be described as a retail use for the sale of pets and pet goods, with complementary pet care facilities.

All the physical works involved in creating the Companion Care facility in the proposed store are internal and therefore do not constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended). It follows that none of the physical works related to the installation of the facility require planning permission.

In addition, the Companion Care facility does not constitute a material change of use. The proposed facility will occupy approximately 17% of the Unit's gross floor area. In physical terms alone therefore, the veterinary use must be considered ancillary to the primary retail use of the unit. The proposed layout of the facility is illustrated on Drawing Ref: 5618/10 D – 'Proposed ground floor and proposed mezzanine layout plans and areas'.

A further indicator of the ancillary nature of the proposed use is that the Companion Care facility is only accessible via the main Pets at Home store, there are no separate access or egress points for customers. It follows that the operating hours of the Companion Care facility are controlled by that of the retail use, thus ensuring that the veterinary use cannot operate independently of the primary retail use of the building.

Furthermore, this functional relationship between the two uses (retail and pet care), are reflected in their arrangement within the building. The majority of the products sold by Pets at Home relating to pet health care and treatment are located in close proximity to the Companion Care facility. A further indicator of the veterinary use's ancillary status is that, in most stores, the area of floorspace occupied by the retail sale of pet care products is greater than the area of the Companion Care facility.

In light of the above, the pet care use is both physically and functionally subordinate to the retail use, and as such, can only be described as ancillary to that.

We acknowledge that there is potential for confusion in determining primary and ancillary uses. The confusion arises initially from the judgement of the Court of Appeal in the Harrods case (*Harrods Ltd v Secretary of State for the Environment, Transport & The Regions* [2002] EWCA 412), which was subsequently referred to in *R. (on the application of I'm Your Man) v North Somerset Council and The International Helicopter Museum* [2004] JPL 1563. In the Museum case, the court held that an assessment of the primary and ancillary relationship had to take account of the functional relationship. It follows that, there is support for our view that in the context of Pets at Home and the pet retail warehousing industry, pet care and treatment facilities are an ordinarily incidental part of the business, operating in a functionally ancillary way.

To support our interpretation that the Companion Care facility is ancillary to the retail use, we enclose copies of Certificates of Lawfulness which have recently been issued by Councils in relation to the facilities at the Pets at Home stores in St Austell, Port Talbot and Harrogate. We hope that these are useful and assist the Council in considering this application.

Summary and Conclusion

We conclude that, in this instance, given the unique characteristics of Pets at Home and the overall physical and functional relationship between the retail business and the Companion Care facility, the pet care, treatment and grooming facility is ancillary to the primary retail use of the Unit.

Accordingly, we respectfully request that this application is approved and a Certificate is granted under Section 192 of the Act, confirming that the proposed Companion Care facility located at Pets at Home, Airport Retail Park in Southend-on-Sea is lawful.

We trust that the information provided above and on the enclosed drawings is sufficient for the Council to register and consider this application. We will endeavour to contact you within the next few days to establish your timetable for decision making.

In the meantime, should you require any clarification or additional information, please do not hesitate to contact Tim Price or Phil Marsden at these offices.

Yours faithfully



Savills (UK) Limited
Commercial Planning

Enc.

Reference No: P2011/0980

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

SCHEDULE 4

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995: ARTICLE 24

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT (PROPOSED)

The Neath Port Talbot County Borough Council hereby certify that on 04/11/2011 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged (c)...red... on the plan attached to this certificate would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons(s):

The proposed use within Unit 4 for a pet care and treatment facility would be incidental to the primary retail use of the planning unit and does not involve a material change of use, and does not require planning permission due to the following:

- (i) The proposed use would occupy a maximum of 23% of the unit's gross floor area.
- (ii) The proposed use would only be accessible via the main Pets of Home store with no separate access or egress point for customers.
- (iii) The proposed use would not open independently of the main retail unit, and the hours of operation would follow the operating hours of the associated store.
- (iv) The turnover of the proposed facility would not exceed 24% of the unit's total turnover.
- (v) The proposed works to create the Companion Care facility will be internal only, and therefore do not constitute development as defined by Section 55 of the Town and Country Planning Act (1990).

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Reference No: P2011/0980



Signed :

Geoff White – Head Of Planning

On behalf of Neath Port Talbot County Borough Council

Date : 11/11/2011

First Schedule LawfulDev.Cert-Prop. Certificate of Lawful Development
(Proposed) for use of part of existing retail unit as ancillary pet care facility

Second Schedule UNIT 4 BAGLAN BAY RETAIL PARK AFAN WAY
ABERAVON PORT TALBOT

Notes

(1) This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 (as amended).

(2) It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, thus, would not have been liable to enforcement action under section 172 of the 1990 Act on that date.

(3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relate to other land may render the owner or occupier liable to enforcement action.

(4) The effect of the certificate is also qualified by the proviso in section. 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Cornwall Council

39 Penwinnick Road St Austell Cornwall PL25 5DR

Email: planning@cornwall.gov.uk

Tel: 0300 1234151

Web: www.cornwall.gov.uk



Application number: PA13/03005

Agent:

Savills Grosvenor Hill
20 Grosvenor Hill
London
W1K 3HQ

Applicant:

Companion Care (Services) Limited
c/o agent

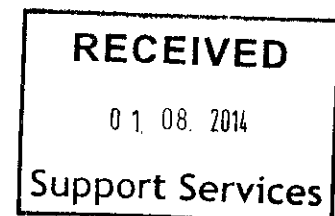
**Town And Country Planning Act 1990 (As Amended) – Section 192
(as amended by Section 10 of the Planning and Compensation Act 1991)**

**Town And Country Planning (Development Management Procedure) (England)
Order 2010 – Article 24**

Certificate of Lawfulness for Proposed Use or Development

CORNWALL COUNCIL, being the Local Planning Authority, **HEREBY CERTIFIES** that on 8 April 2013 the use or works described in the First Schedule attached hereto in respect of the land specified in the Second Schedule attached hereto and edged red on the submitted plan was lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed Companion Care Facility as described at 18% of the unit floor area would be ancillary to the main permitted use of the building as an A1 retail business, as detailed on the supporting plans and accompanying documentation and would not represent a material change of use for the purposes of Section 55 of the Town and Country Planning Act 1990 (as amended) and would therefore be lawful or the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).



YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

DATED: 30 May 2013

**Phil Mason
Head of Planning and Regeneration**

FIRST SCHEDULE

Certificate of Lawfulness for the proposed use of part of retail warehouse as an ancillary pet care and treatment facility.

SECOND SCHEDULE

Pets at Home Pentewan Road St. Austell Cornwall PL25 5BU of the Parish of St Austell

PLANS REFERRED TO IN CONSIDERATION OF THIS CERTIFICATE:

Site/location Plan CC/PRP/SLP February 13



**Phil Mason
Head of Planning and Regeneration**

DATED: 30 May 2013

NOTES

Appeals to the Secretary of State

If the applicant is aggrieved by the decision to refuse, in whole or in part (including a case in which the authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), they may appeal to the Secretary of State under section 195 of the 1990 Act.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

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Typical Warehouse Pet Products Range Summary

Dept	Name	Veterinary	Care
360	Horse Feed		
1100	Frozen Dog Food		
1105	Puppy/Junior Food		X
1110	Adult Foods	X	
1115	Senior Foods	X	
1120	Light Foods		
1125	Active / Performance	X	
1130	Mixers		
1135	Regional Foods		
1140	Special Diet-Dry	X	
1145	Special Diet-Wet	X	
1150	Adult Tinned Dog Food		
1155	Single Serve Dog Food		
1160	Other Dog Food		
1165	Loose Biscuits		
1170	Biscuit & Soft Treat		
1175	Natural Based Treats		
1400	Cat Food Adult Tins	X	
1405	Cat Food-Single & Special		
1410	Cat Food-Complete Dry	X	
1415	Cat Treats		
1600	Small Animal Food		
1605	Small Animal Treats		
1700	Wild Bird Food		
1710	Bird Food		
1715	Bird Treats / Supplements		X
1800	Fish Food		
300	Giftware		
302	Videos		
1220	Kennels & Pens		X
1225	Carriers		X
1230	Dog Tethering / Travel		X
1235	Muzzles		
1240	Bowls / Feeders/ Acces		X
1245	Scoops / Accessories		
1250	Foam Beds / Soft Loung		X
1255	Mattresses & Beanbag		X
1260	Duvets		X
1265	Flopsy / Snoozees / Other		X
1270	Vet Beds	X	
1275	Hard Dog Beds		X
1280	Cat Bedding		X
1300	Nylon Plain		
1305	Nylon Premium		
1310	Nylon Fashion		
1315	Braided & rope		
1320	Small Dog		
1325	Chain		
1330	Leather		
1335	Leather Premium		
1340	Leather Fashion		
1345	Quick Tag		
1350	Accessories & Other		
1355	Reflective		
1360	Harnesses		
1365	Extending Leads		
1420	Cat Collars/Harnesse		

Typical Warehouse Pet Products Range Summary

Dept	Name	Veterinary	Care
1430	Cat Furniture		X
1435	Cat Litter Trays		X
1440	Cat Litter		X
1445	Pet Doors		
1515	Condition / Supplement	X	
1520	House / Garden		
1525	Dental Care	X	
1615	Chinch / Ferret Produc		
1620	Small Animal Feeding		
1625	Small Animal Plaything		
1630	Small Animal Modular		
1635	Small Animal Cages		
1640	Hutches / Runs		
1645	Small Animal Bedding		X
1720	Bird Feeders&Accs		
1725	Perches & Swings		
1740	Bird Cages & Stands		
1745	Avaries & Parrot Cag		
1805	Fish Treatment		
1810	General Accessories		
1815	Filtration		X
1820	Aeration		X
1825	Heating		X
1830	Lighting		X
1835	Ornaments		
1840	Plants		
1845	Gravels		
1850	Tanks		
1855	Furniture		
1860	Pond Food		
1865	Pond Treatment		X
330	Pet Insurance		
1215	Trainers/Nylabone		
1535	Grooming	X	
1705	Wild Bird Feeders		
389	Wormers	X	
1500	Flea Control	X	
1505	Wormers	X	
1200	Squeaky Toys		
1205	Rubber Toys		
1210	Rope Toys		
1370	Dog Coats		
1425	Cat Toys		
1510	General Medication	X	
1530	Shampoos / Sprays	X	
1610	Sml Animal Health / Hygiene	X	
1730	Parrot Toys		
1735	Other Bird Toys		