

Planning Department
Wokingham Borough Council
Council Offices
Shute End
Wokingham
Berkshire
RG40 1BN

Our ref: 6554

04 February 2026

Dear Sir/Madam

Application for a Certificate of Lawfulness for the proposed use of the site within Use Class E – Westmead Centre, Rances Lane, Wokingham RG40 2LH

On behalf of our client, Inspire Children's Day Nurseries Ltd. ("the applicant"), please find enclosed an application for a Certificate of Lawfulness for a Proposed Use or Development ("CLEUD"), relating to Westmead Centre, Rances Lane, Wokingham, RG40 2LH ("the site").

The application seeks to formally establish that the property edged red on the site location plan is in use as Class E ((f)creche, day nursery or day centre) and can be used as Class E moving forwards. Accordingly, a Certificate of Lawfulness under Section 192 of the Town and Country Planning Act 1990 ("the Act") should be issued.

The Site

The site is located to the west of Rances Lane, set back from the highway. The site is bordered by residential dwellings on the northern, eastern and southern boundaries and St Crispin's School to the west. The site is approximately 100 metres to the south of London Road, the main through road from Wokingham Town Centre to the A329 and Bracknell.

Planning History

The site has the following planning history:

- 10665 – proposed covered play area at Westmead School. Approved May 1979.
- 21873 – garage for school minibus. Approved June 1984.
- 29155 – extension to proposed day centre for physically handicapped and additional parking provision. Approved September 1987.



PROPOSED WESTMEAD DAY CENTRE

28 SEP 1987

Although planning permission is not necessary for the change of use of the premises as both the former and proposed uses fall with class D1 of the Use Classes Order, the following background information may be of assistance.

The proposed new day centre at Westmead is to be for people with physical disabilities who live in the Wokingham District Council area. The aim is to create a centre with a social atmosphere where the disabled people themselves can choose to undertake a wide range of recreational and artistic activities. It is planned to incorporate a cafeteria and licensed bar in the centre. There is not to be an emphasis on personal care and occupational and vocational training which have been features of more traditional centres. The centre is designed to cater for up to forty people at any one time and the majority of activities will take place during normal working hours. In addition however it is envisaged that the centre will open some evenings and weekends for use by disabled people, their families and friends. Two minibuses will be available to transport people to and from the centre and for excursions to other places. It is expected that a minority of users may wish to use their own transport to the centre. The centre will be staffed by a manager and an assistant with three other members of staff to assist the users in their activities. In addition there will be a clerk, cleaner, cook and drivers.

Figure 1 Extract from planning application 29155

The site's first two planning permissions available (ref. 10665 and 21873) showed the site to be in use as a school, known as the Westmead Special School, in former D1 use. Planning permission 29155, in 1987, granted an extension to the building and changed the use of the site to a **day centre**, and as shown from the extract above (figure 1), the former school use and proposed day centre both fell within class D1, and this use was not contested. The planning history records show that the site was to then be occupied by the Westmead Day Centre, thereby implementing the planning permission and confirming the use as a day centre. Management of the Westmead Day Centre was then taken over by Optalis in 2013. Optalis is owned and operated by Royal Borough of Windsor and Maidenhead and Wokingham Borough Council, and managed Westmead Day Centre up to the end of 2025. This 1987 Planning Application, whilst not necessary at the time, is of direct relevance now that day centres (Class E) and schools (Class F) are in different use classes. It unequivocally confirms that the approved use of the site is as a day centre.

Class D1 was revoked from 1 September 2020 and Class D1 was split out and replaced by the new Classes E)e-f) and F1. The site now falls under Use Class E (f): *creche, day nursery or day centre (not including residential use)*. There is no evidence on the contrary to show that the site is not in use Class E. The use classes are shown below for clarification:

E Commercial, Business and Service

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

- (a) for the display or retail sale of goods, 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 or use as a swimming pool or skating rink, 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 the consultant or practitioner,
 - (f) for a creche, day nursery or **day centre**, not including a residential use, principally to visiting members of the public,
 - (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, smell, fumes, smoke, soot, ash, dust or grit.



F Use Classes

F1 Learning and non-residential institutions	Any use not including residential use— (a) for the provision of education, (b) for the display of works of art (otherwise than for sale or hire), (c) as a museum, (d) as a public library or public reading room, (e) as a public hall or exhibition hall, (f) for, or in connection with, public worship or religious instruction, (g) as a law court.
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Legal Context

Section 192 of the Act states that if any person wishes to ascertain whether any proposed use of buildings or existing uses or buildings or other land is lawful, an application can be made for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

Part 2 of Section 192 states:

“If, on an application under this section, the local planning authority are provided with information satisfying them 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; and in any other case they shall refuse the application.”

Part 3 states that a certificate under this section shall –

- (a) Specify the land to which it relates;
- (b) Describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under Section 55(2)(f), identifying it by reference to that class);
- (c) Give reasons for determining the use or operations to be lawful; and
- (d) Specify the date of the application for the certificate.

Part 4 states:

“the lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.”

In the case of *France v Kensington and Chelsea RLBC*, [2017] 1 W.L.R. 3206 that Court held that:

*“...that it was lawful for a planning authority, on an application under section 192 of that Act for a certificate of lawfulness of proposed or development, **to determine the lawfulness of an existing use or operation in so far as that was necessary in order to determine the application before it**; and that since the developers’ application under section 192 for a certificate of lawfulness of proposed use or development had not sought to **have certified that the works already undertaken were lawful but had merely sought to rely on their lawfulness to establish that the proposed works would be lawful because they comprised the balance of the works authorised by the planning permissions which existing works had lawfully implemented, looked at as a whole the certificate granted was not for existing works but only for proposed works and was lawful.**”* (added emphasis).

In accordance with this case law, this letter confirms that the existing use of the site is Class E and forms the basis that the site can be occupied in a Class E use in the future.

Conclusion



The site's planning history confirmed that the site was originally in Class D1 use for a school and was changed to a day centre in 1987. The site most recently has been occupied by Optalis, using the site as a day centre, and has been in continuous use for 12 years. I therefore request that the Certificate of Lawfulness is issued for the proposed Use Class E, specifically to allow the operation of a creche, day nursery or day centre on site moving forwards, in accordance with Section 192 of the Act.

Yours faithfully

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