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21 February 2024

Dear Sir/Madam,

Premiere House, Elstree Way, Borehamwood, Hertfordshire, WD6 1JH
Application for Certificate of Lawfulness for Established Use
Planning Portal Ref: PP-12825096

Please find enclosed an application on behalf of PCP IV Beta Ltd for the following:

*Certificate of lawfulness under Section 192 for established use of ground floor premises
as a café (Use Class E)*

Accordingly, please find enclosed the following:

- Site Location Plan
- Existing Site Plan
- Proposed Site Plan
- Existing Elevation
- Proposed Elevation

The application fee will be paid separately.

The planning considerations are set out below.

Introduction

This application seeks confirmation that the ground floor use of the Premiere House building as shown edged red on the accompanying Site Location Plan, as a café, is lawful under section 192 of the Town and Country Planning Act 1990. This is on the basis that the use of the area as a café (Use Class E) falls under the lawful Class E use of the building as a whole, and will therefore not require planning permission to operate as such.

The office use of the building (Use Class E) has been established through the granting of planning permission in 1985, and is confirmed by the Council within a recent delegated officer report (in conjunction with approval reference 23/1280/FUL for an extension to existing office building). This is set out in more detail in the 'planning history' section of this statement.

Section 55 of the Town and Country Planning Act 1990 (as amended) states:

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.

It goes on to state at paragraph (2) (f):

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –

f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

The planning practice guidance states the following in relation to the determination of applications for proposed development:

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.

In determining an application for prospective development under Section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

This application demonstrates that the use of an area at ground floor level as a café falls within the lawful use (Class E) of the building.

Site Location

The site is located on the north-eastern side of Elstree Way. The application building, Premiere House, comprises a high quality office complex, featuring self-contained offices set across three interconnected buildings. The buildings total 77,592 sq. ft of office space and are positioned around a central courtyard, with undercroft vehicular parking providing 285 spaces.



A site Location Plan accompanies the application, and the application site can be seen in the photograph at Figure 1.

Figure 1 – Site Photograph



The site falls within the urban settlement of Hertsmere, in a Primary Employment Area.

Planning History

23/1280/FUL	Single storey extension to existing office building to create ancillary gym, with provision of new cycle parking.	Permission Granted 24/11/2023
21/1799/FUL	Fenestration alterations and alterations at fourth floor terrace level to include installation of external doors and of balustrading.	Permission Granted 28/10/2021
20/1363/FUL	Erection of a single storey coffee kiosk and associated external works.	Permission Granted 23/10/2020
17/1806/FUL	Erection of a single storey coffee kiosk.	Permission Granted 21/11/2017
16/0965/VOC	Variation to condition 2 attached to planning permission reference 15/0526/FUL - To	Permission Granted 14/07/2016



	amend the hours of opening of the Coffee Kiosk to 07.00-23.00 Monday to Sunday.	
15/0526/FUL	Erection of single storey coffee kiosk with external seating area.	Permission Granted 22/05/2015
TP/08/0043	Alterations to car parking and landscaping arrangement (Revised layout to scheme granted planning permission on 4th July 2007 [ref: TP/07/0740]).	Permission Granted 07/03/2008
TP/07/2133	Display of 1 illuminated single-storey free-standing sign, 1 illuminated double-sided sign, two sets of illuminated lettering and 3 non-illuminated signs. (Application for Advert Consent) (Amended by additional information received 05.12.2007).	Consent Granted 17/01/2008
TP/07/0740	Installation of new courtyard entrance together with reception alterations to existing entrance from Elstree Way to include installation of new disabled toilet and alterations to existing car parking including new stair canopy (Amended plan received 19/06/2007).	Permission Granted 04/07/2007
TP/85/6216	Erection of three office buildings, one of 4 storeys, another of 5 storeys and another of 6 storeys. Rooftop plant rooms, vehicular access and egress. Amended plans received 06/08/85.	Permission Granted 31/12/1985 Subject to S52 Agreement
TP/85/0558	Erection of three office buildings, one of 4 storeys, another of 5 storeys and another of 6 storeys. Rooftop plant rooms, vehicular access and egress. Amended plans received 06/08/85.	Permission Granted 10/10/1985
TP/83/0927	Outline application for the erection of 8350m ² offices, 350m ² plant room, 2400m ² basement car park. Amended plans received 04/04/84.	Permission Granted 17/06/1985 Subject to S52 Agreement

Lawful Use of the Building

Planning permission was granted for the office complex in 1985. The building has since been subject to extension work and alterations, notably those granted in 2007 under TP/07/0740, followed by alterations to the vehicular parking layout and landscaping granted in 2008 under TP/08/0043. More recently, permission has been granted for a small extension to provide an ancillary gymnasium under 23/1280/FUL.



The planning history for the application building confirms its lawful use as office space, with officer planning reports consistently referring to it as an '*office building*'.

The Town and Country Planning (Use Classes) Order 1987 (as amended) was revised in September 2020, with the identification of a new Use Class E (Commercial, Business and Service). This incorporates a variety of uses, one of which is:

E(g)(i) an office to carry out any operational or administrative functions.

Class E covers the former use classes of A1, A2, A3, B1, as well as parts of D1 and D2, merging them into the new Use Class E. Prior to 2020, office use fell within Use Class B1.

The planning history for the site does not include any permissions subject to conditions which would restrict the current proposal.

Proposed use of the building

It is proposed to use an area at ground floor of the existing building (measuring approx. 181.6m²) as a café. The area proposed is shown on the plans at Figures 2 – 4.



Figure 2: Proposed Location Plan

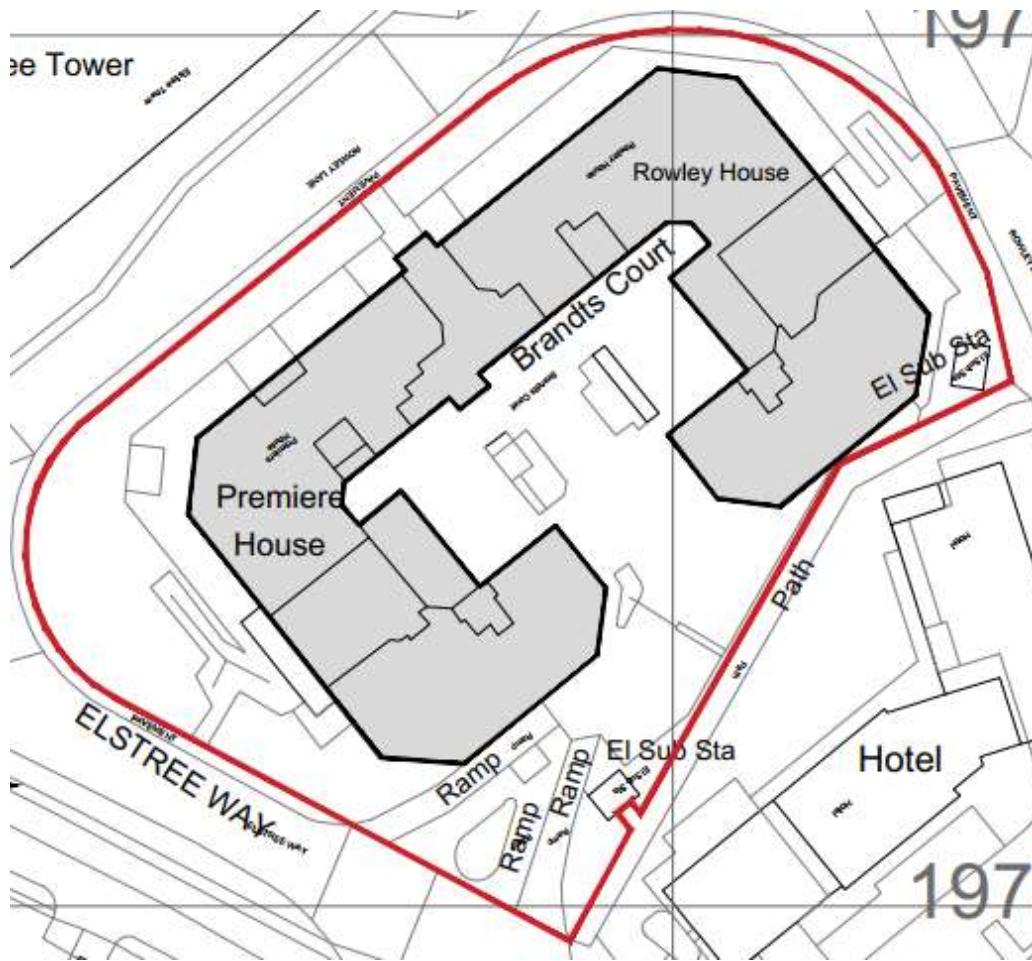


Figure 3: Proposed Location Within Existing Building

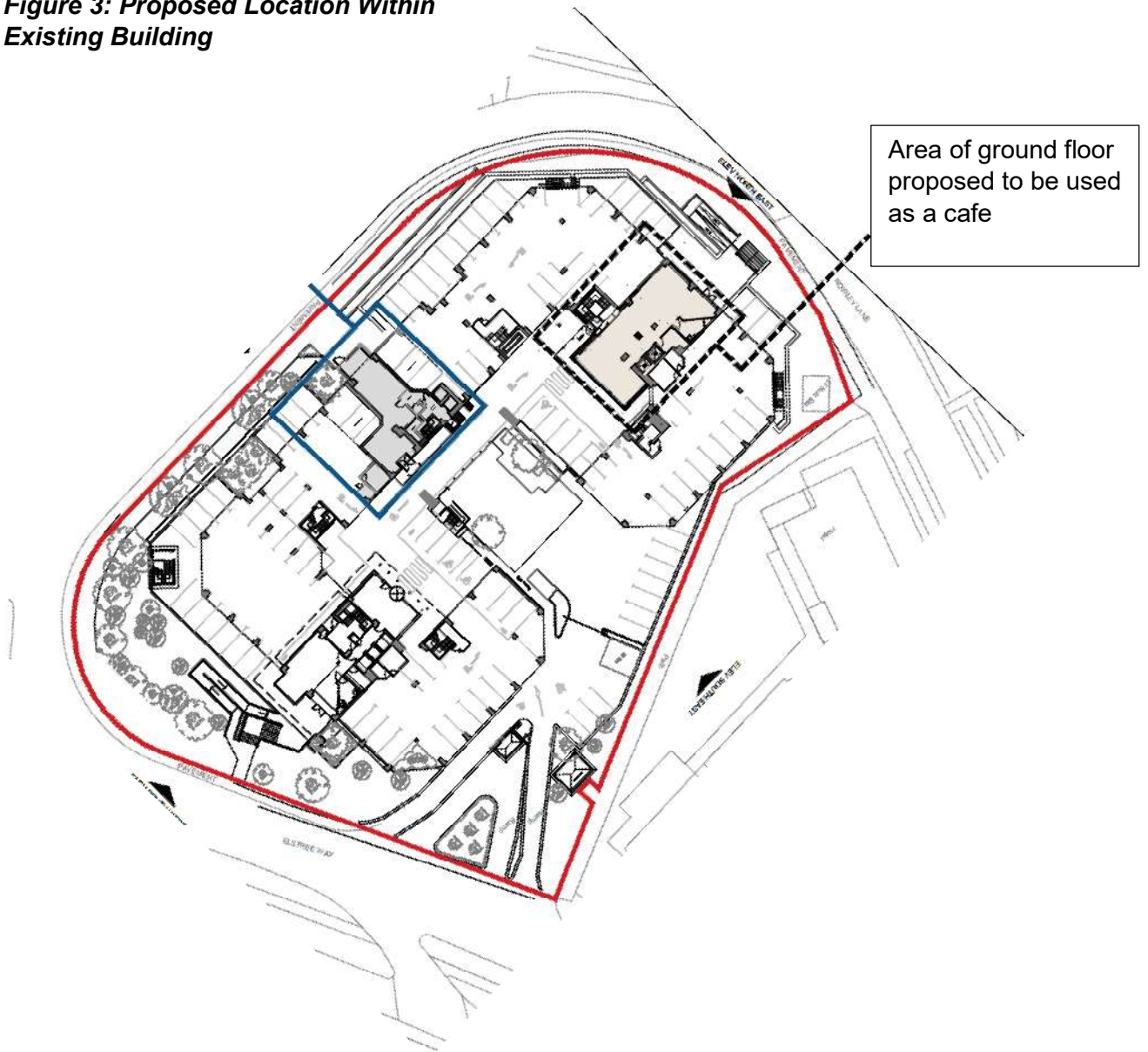
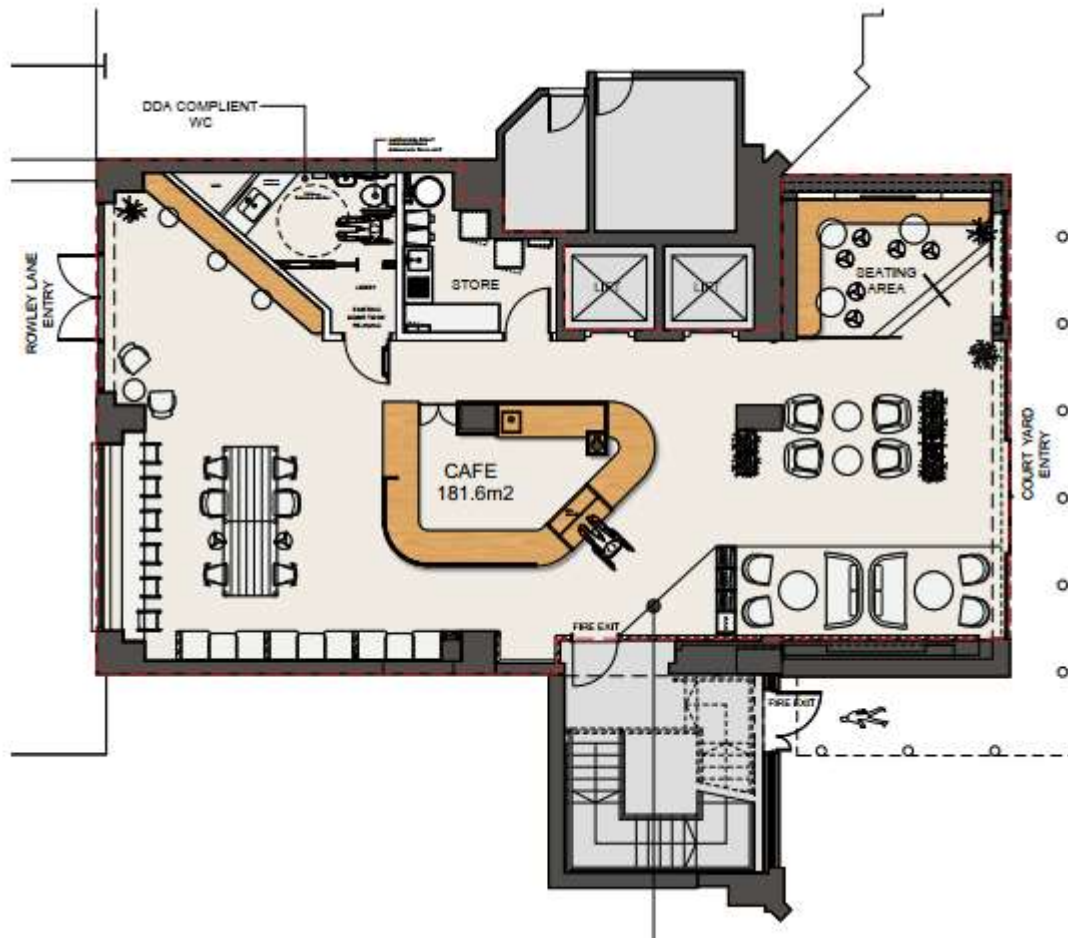


Figure 4: Proposed Café Plan



This proposed use would fall solely within Use Class E as follows:

E(b) sale of food and drink for consumption (mostly) on the premises.

The proposed use will not involve the carrying out of any operational development which will require planning permission. There will be no external works required to enable the use to commence. All works will be of an internal nature. Any external signage would be subject of a separate advertisement consent application.

As such, the proposal would not result in any material change of use of the building requiring its own grant of planning permission, and would be lawful in accordance with Section 192 of the Act.



Conclusion

It is considered that the evidence submitted and available to the Council is sufficiently precise and unambiguous to justify the grant of a certificate. The use of part of the existing building as a café will fall under Use Class E, the same lawful use of the existing building as a whole. It is therefore considered that the proposal is lawful.

It is therefore respectfully requested that a certificate of lawful development is granted in respect of this proposed use under Section 192 of the Town and Country Planning Act 1990 (as amended).

I hope this provides all the information you need for the application, but should the Council require further information or clarification, please contact us prior to the determination of the application in accordance with Article 35(9) of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

Yours faithfully

Rosalind Gall

Rosalind Gall MA MRTPI

Associate Director

