

PLANNING STATEMENT

**Application for a Certificate of Lawful Proposed Use or Development
Section 192, Town and Country Planning Act 1990**

TABLE OF CONTENTS

1. Introduction: Purpose and Context of the Application.....	3
2. Detailed Site Description and Planning Baseline.....	4
2.1 Site Description and Local Context.....	4
2.2 Establishment of Lawful Existing Use.....	4
3. Description of the Proposed Development and Scope of Application.....	5
4. The Legislative and Planning Framework.....	6
4.1 Town and Country Planning Act 1990 – Definition of Development.....	6
4.2 The Town and Country Planning (Use Classes) Order 1987 (as amended).....	6
5. Planning Portal Guidance and Industry Confirmation.....	7
6. Rigorous Assessment of Lawfulness.....	7
6.1 The Development Test Re-affirmed.....	7
6.2 Application of the Certificate of Lawfulness (Section 192) Test.....	8
7. Non-Material Planning Considerations.....	8
8. Final Conclusion and Formal Request.....	8

1. Introduction: Purpose and Context of the Application

This Planning Statement is formally submitted to the Local Planning Authority in comprehensive support of an application for a Certificate of Lawful Proposed Use or Development (CLOPUD). This application is made pursuant to the provisions of Section 192 of the Town and Country Planning Act 1990 (as amended), the key legal mechanism for seeking formal confirmation on the lawfulness of a proposed use.

The core purpose of this application is to secure an authoritative, legally binding determination from the Local Planning Authority that the proposed change of use is lawful and, crucially, does not constitute 'development' requiring the grant of express planning permission under the aforementioned Act.

The application specifically relates to the premises located at:

69 Sandy Lane, Prestwich, Manchester M25 9PS

Local Planning Authority: Bury Metropolitan Borough Council

The proposed change of use is from the existing lawful operation as a Hairdressers and Barbers, currently trading under the name Inspire Hair & Beauty, to a dedicated dental practice (dental surgery). The legal basis of the application hinges on demonstrating that both the existing and the proposed uses fall unequivocally within the same Use Class defined under national planning legislation, thereby negating the requirement for a formal planning application.



GOOGLE EARTH PIC

2. Detailed Site Description and Planning Baseline

2.1 Site Description and Local Context

The application site comprises a self-contained, ground-floor commercial unit situated prominently along Sandy Lane in Prestwich. This is a well-established urban area characterised by a diverse and vibrant mix of uses, including residential dwellings, local retail outlets, and various commercial and service providers. The unit benefits from a traditional, public-facing shopfront and is inherently accessible, having historically functioned as a vital local service facility for the immediate community and wider locality. Its location within an established commercial ribbon enhances its suitability for the proposed service use.

2.2 Establishment of Lawful Existing Use

The determination of lawfulness for the proposed use requires a clear and robust establishment of the existing planning baseline. The premises has been demonstrably and continuously operated as a Hairdressers and Barbers, trading as “Inspire Hair & Beauty”, since 2008.

This period of continuous operation exceeds fifteen years, a duration which provides considerable certainty regarding its lawful status. Furthermore, there is no record or knowledge of any planning enforcement action ever having been initiated or pursued by the Local Planning Authority (Bury Metropolitan Borough Council) against this established use.

Accordingly, the existing use as Hairdressers and Barbers is confirmed as lawful through one or both of the following legal grounds:

1. Express Planning Permission: By virtue of any original or subsequent planning permission granted for the use.
2. Immunity from Enforcement: Under Section 171B of the Town and Country Planning Act 1990, due to continuous use for a period significantly exceeding the statutory enforcement limit of ten years for a change of use without planning permission.

Therefore, the undisputed lawful use of the premises as a Hairdressers and Barbers forms the essential and non-negotiable planning baseline against which the lawfulness of the proposal must be assessed.



STREET VIEW

3. Description of the Proposed Development and Scope of Application

The proposal seeks a straightforward, purely legal change in the operational use of the premises from its current function as a Hairdressers and Barbers (Inspire Hair & Beauty) to a professional dental practice. The resulting operation will provide essential dental health services, including preventative, restorative, and general dental care, to registered patients.

It is critical to specify the exact scope of this application for the avoidance of any doubt:

- External Alterations: Absolutely no external physical changes, modifications, or additions to the building fabric or appearance are proposed as part of this application.
- Operational Development: No extensions, new buildings, or any other form of operational development as defined in the 1990 Act are proposed.
- Sole Focus: This application relates exclusively to the determination of the planning lawfulness of the proposed change of use.

Any necessary internal fitting-out or modification works required to meet the specific clinical and operational standards of a dental practice will be entirely contained within the existing structure. Such works are non-planning matters and will be appropriately addressed under the separate regulatory regime of Building Regulations.

4. The Legislative and Planning Framework

The assessment of lawfulness rests entirely on the relevant provisions of the national planning legislation.

4.1 Town and Country Planning Act 1990 – Definition of Development

Section 55 of the Town and Country Planning Act 1990 provides the fundamental definition of what constitutes "development" for the purposes of requiring planning permission.

Crucially, Section 55(2)(f) explicitly states a key exception to the definition of development: *"The use of any land for any purpose for which it is lawfully used shall not be taken to involve development."*

This statutory exemption establishes the principle that a change of use which remains within the same Use Class—as defined by secondary legislation—does not constitute a material change of use, therefore does not count as development, and consequently does not require planning permission.

4.2 The Town and Country Planning (Use Classes) Order 1987 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended) is the statutory instrument that classifies land uses. The relevant classification for both the existing and proposed uses is Use Class E, introduced by the 2020 amendments.

Use Class E – Commercial, Business and Service is a broad and flexible class which includes a wide variety of main uses, specifically grouping together those that share characteristics regarding their effect on the locality.

Within **Use Class E**, the following relevant categories are included:

- **E(c)(iii) Personal Services:** Including all services that are principally provided to visiting members of the public, such as **hairdressers and barbers**.
- **E(e) Medical or Health Services:** This explicitly includes the provision of medical or health services, specifically naming **clinics and dental practices**, provided they are primarily for the non-residential benefit of the public.

It is therefore established fact that:

1. The existing lawful use as a Hairdressers and Barbers falls entirely within Use Class E.
2. The proposed use as a dental practice falls entirely within Use Class E.

5. Planning Portal Guidance and Industry Confirmation

This legal position is consistently reflected in the guidance provided by the Government's official Planning Portal. The guidance explicitly confirms that where a change of use is effected within the same Use Class, the change is typically regarded as non-material for planning purposes. This is because the overall planning character and impact of the use remain within the established parameters of that Use Class.

As the proposal represents a change solely between two distinct uses that are both expressly included within Use Class E, the change of use is not a material change of use and does not legally require the submission or approval of a planning application.

6. Rigorous Assessment of Lawfulness

6.1 The Development Test Re-affirmed

The proposed change of use from the existing Hairdressers and Barbers (Inspire Hair & Beauty) to a professional dental practice satisfies the legal criteria for not constituting development:

- **Retention within Use Class E:** Both the existing and proposed uses are explicitly defined as falling within Use Class E.
- **Absence of Operational Development:** No physical building works constituting development are proposed.
- **Maintenance of Planning Character:** The change does not fundamentally alter the lawful commercial and service character of the premises within the Use Class E framework.

In strict compliance with Section 55 of the 1990 Act, the proposal falls outside the statutory definition of development.

6.2 Application of the Certificate of Lawfulness (Section 192) Test

This application invokes the provisions of Section 192 of the Town and Country Planning Act 1990. The statutory test for granting a Certificate of Lawful Proposed Use or Development is a purely legal and factual one: whether the proposed use would be lawful if carried out, assessed on the simple balance of probability.

In the context of a CLOPUD application, the planning merits, local planning policies (such as those concerning design, scale, or impact), or any policy objections are not relevant to the determination.

Given the preceding legal and factual analysis:

1. The existing use as a Hairdressers and Barbers is unequivocally established as lawful.
2. The proposed use as a dental practice remains wholly within the same Use Class E as the existing lawful use.

Therefore, the proposal fully and convincingly satisfies the legal test required for the granting of a Certificate of Lawful Proposed Use or Development.

7. Non-Material Planning Considerations

For complete clarity, the following matters are legally deemed non-material to the determination of the lawfulness application under Section 192 and should not form part of the Authority's assessment:

- Traffic and Parking Impacts: While important in a full planning application, these matters do not affect the planning lawfulness of a change of use within the same Use Class.
- Noise or Disturbance: Similarly, any potential amenity impacts are not relevant to the statutory test for lawfulness under Section 192.
- Internal Layout and Clinical Fit-out: These are matters for Building Regulations and internal operational management, not planning control.
- Care Quality Commission (CQC) Registration: The requirement for, or progress toward, CQC registration for the dental practice is a regulatory compliance matter and bears no relationship to the planning lawfulness of the use itself.

8. Final Conclusion and Formal Request

In summary, the proposal for the change of use of 69 Sandy Lane, Prestwich, Manchester M25 9PS from an established Hairdressers and Barbers (Inspire Hair & Beauty) to a dental practice is inherently lawful for the following conclusive reasons:

- Both the existing use and the proposed use are legally defined as falling within Use Class E – Commercial, Business and Service.

- A change of use between uses within the same Use Class does not constitute a material change of use.
- Consequently, the change does not legally constitute 'development' as defined by the Town and Country Planning Act 1990.
- The proposed use therefore does not require planning permission and is legally lawful.

The applicant therefore formally and respectfully requests that Bury Metropolitan Borough Council acknowledges this position and proceeds without delay to grant a Certificate of Lawful Proposed Use or Development confirming the lawfulness of the proposed dental practice use.