

Our ref. : AB2514/LPA160425

Planning – Development Control
London Borough of Camden
Camden Town Hall
London
WC1H 8ND

16th April 2025

Dear Sir/Madam,

**CERTIFICATE OF PROPOSED LAWFUL USE APPLICATION
5 GRAY'S INN ROAD, LONDON, WC1X 8PH**

On behalf of our clients, FRG London Ltd., please find enclosed an application seeking a Certificate of Proposed Lawful Use in respect of the commercial premises at 5 Gray's Inn Road, London, WC1X 8PH.

A Certificate of Proposed Lawful Use is sought in respect of the proposed use of the commercial premises as a gym, i.e. for purposes falling within Use Class E(d), namely for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public.

This Certificate application comprises the following documentation, all of which has been submitted electronically to the London Borough of Camden (the LPA) via the Planning Portal website ;

- Completed application forms.
- Completed Community Infrastructure Levy (CIL) form.
- This covering letter/supporting statement prepared by Beamish Planning Consultancy.
- Appendix 1 to covering letter/supporting statement – Google Streetview imagery of application premises dating from June 2008 through to October 2024.
- Appendix 2 to covering letter/supporting statement – decision notice (dated 12th June 2012) and approved plans relating to express advertisement consent application ref. 2012/2054/A.
- Unnumbered 1:1250 scale OS plan of application site and surrounding area.
- Drawing no. 0291-01 Revision A – existing floor plans.
- Drawing no. 0291-03 Revision A – proposed floor plans.

The statutory Certificate of Proposed Lawful Use or Development application fee of £294 (i.e. half the full application fee), plus the Planning Portal service charge fee of £85, has been paid via the Planning Portal website at the time of submission.

Description of application premises and surroundings

The self-contained commercial premises which comprise the application site total 1096 square metres of floorspace spread across both ground and basement level, within a mixed-use seven-storey building located on the north-western corner of the junction of Gray's Inn Road and High Holborn (the A40 road).

The premises are currently occupied by an arts organisation (XYZ) who promote community arts projects and workshops. It is open to interpretation as to whether such usage falls within Use Class E (Commercial, Business or Service) or Use Class F1 (Learning and Non-Residential Institutions).

However, we would stress that the XYZ have occupied the premises for less than 3 years (as demonstrated by Google Streetview imagery (which is provided within Appendix 1 to this supporting statement), and for many years (far more than 10 years) prior to KYZ occupying the premises it was used continuously as a retail shop (Use Class E(a)) trading as 'Argos'. Furthermore, the LPA has not granted planning permission for any change of use of the premises.

Accordingly, even if the view was taken that KYZ's use of the premises does not fall within Use Class E (a view that we do not share) there can be no doubt that the lawful use of the premises is for purposes falling within Use Class E.

Planning history of application premises

The only planning history relating to the application premises which is available on the LPA's online database dates back to 2012, when the LPA granted express advertisement consent (application ref. 2012/2054/A) for the display of illuminated fascia and projecting signage associated with the retail occupier ('Argos').

A copy of the approved plans and the decision notice relating to that application are provided within Appendix 2 to this supporting statement. It is also noteworthy that the Officer delegated report relating to that application makes no reference to any planning history relating to the premises (but does make reference to how the ground floor was in retail use) and that the LPA's online database entry relating to that application describes the use of the premises at that time as comprising a retail shop.

Relevant legislation and associated guidance relating to applications for Certificates of Lawfulness of Proposed Lawful Use or Development

Section 192 of the Town and Country Planning Act 1990 (as amended) states ;

'(1) If any person wishes to ascertain whether—

- (a) any proposed use of buildings or other land; or
- (b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) 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.

(3) 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 the reasons for determining the use or operations to be lawful; and
- (d) specify the date of the application for the certificate.

- (4) 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.'

The National Planning Policy Guidance (NPPG), which was first published in March 2014, is regularly updated, and which replaced a significant number of previously published Government Circulars (including in particular Circular 10/97, entitled 'Enforcing Planning Control', and Annex 8 to that Circular, entitled 'Lawfulness and the Lawful Development Certificate'), provides clarification as to what information should be provided in respect of a Certificate of Lawfulness application and how LPA's should determine such applications.

This guidance advises that;

'The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.'

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.'

Evidence and assessment

For the LPA to issue a Certificate of Proposed Lawful Use, it would need to be satisfied that the proposed use of the premises for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public (i.e. Use Class E(d)), does not comprise a material change of use (i.e. one requiring planning permission) from the lawful use of the premises

It is therefore firstly necessary to establish what the lawful use of the application premises is. As set out earlier within this supporting statement, the premises are currently occupied by an arts organisation (XYZ) who promote community arts projects and workshops. As artists studios fall within Use Class E (Commercial, Business and Service), we consider that the current usage of the site comprises a Class E use, although we acknowledge that it might be argued that the current use falls within Use Class F1 (Learning and Non-Residential Institutions).

However, this is essentially wholly irrelevant as it is a matter of fact (and evidenced by the Google Streetview imagery found within Appendix 1) that the current tenants (KYZ) have occupied the premises for less than 3 years. As the Google Streetview evidence clearly demonstrates, as recently as July 2022 the premises was trading as a retail shop (an 'Argos'), and that retail shop (now Use Class E(a), formerly Use Class A1) use was continuous from prior to July 2008 through to some time after July 2022, i.e. a continuous period of at least 14 years.

This is also corroborated by the express advertisement consent application (LPA ref. 2012/2054/A, which was approved in June 2012), relating to proposed signage associated with the retail occupier ('Argos') which was already trading from the premises at the date of that application.

Consent for that proposed signage was granted by the LPA in June 2012 (the decision notice is included within Appendix 2 to this supporting statement) and the Google Streetview imagery within Appendix 1 demonstrates that 'Argos' were trading from the premises as a retail shop until some point after July 2022, i.e. more than 10 years after that signage application (which related to the existing commercial occupier) was approved in June 2012.

Consequently, the evidence demonstrates that the lawful use of the premises is for purposes falling within Use Class E (Commercial, Business and Service), specifically for purposes falling within Use Class E(a), i.e. for the display or retail sale of goods, other than hot food, principally to visiting members of the public.

Section 55(2)(f) of the Town and Country Planning Act (as amended) confirms that the following does not constitute 'development' ;

'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.'

Therefore, the change of use of the application premises from its lawful use, i.e. for the display or retail sale of goods, other than hot food, principally to visiting members of the public (Use Class E(a)) to its proposed use for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public (i.e. Use Class E(d)), involves an interchange of two uses falling within Use Class E, which does not constitute 'development' as defined by the Town and Country Planning Act 1990 (as amended).

Conclusion

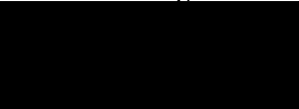
As set out within this supporting statement and demonstrated by way of the evidence being submitted, the lawful use of the application premises is for purposes falling within Use Class E(a), i.e. for the display or retail sale of goods, other than hot food, principally to visiting members of the public.

The proposed use of the premises for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public (i.e. Use Class E(d)) does not constitute 'development' as defined by Section 55 of the Town and Country Planning Act 1990 (as amended), as both the lawful and proposed use of the premises fall within Use Class E (Commercial, Business and Service).

Accordingly, the proposed use of the premises for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public (i.e. Use Class E(d)) is lawful, and the LPA should issue a Certificate of Proposed Lawful Use under Section 192 of the Town and Country Planning Act 1990 (as amended).

We trust that this Certificate application will be promptly validated and look forward to receiving formal confirmation of this in due course, and subsequent dialogue with the Case Officer to whom this application is allocated, but in the meantime should any further information or clarification be required please do not hesitate to contact us.

Yours faithfully,



Adam Beamish
BA (Hons), DIP TRP, MRTPI