

I Helen Bodger of 16 Englands Lane, Hampstead, NW3 do solemnly and sincerely declare that:-

1. I am a director of Curvus which is a company trading under the name Belsize Health at Basement and Ground Floor 16 Englands Lane, London NW3. I make this declaration in support of an application for a certificate of lawful use of the premises for D1 use. The premises have been leased and used as a single unit for the provision of complimentary medicine (massage, acupuncture etc) since the early 1990s. In January 2001 I took an assignment of the existing lease and the company commenced trading and has continued trading to date from the premises.

2. In 2004 the company applied for a D1 Certificate of Lawful use for the premises.

3. That application was refused on 22<sup>nd</sup> March 2005 due to perceived ambiguity regarding the existing use of part of the ground floor area of the clinic. We were informed that we had failed to demonstrate that this section of the building had been used as part of the clinic. It was assessed that this part of the ground floor was lawful only for retail purposes and therefore an A1 certificate based on the existing use. The application for D1 for the whole clinic was refused, but it was acknowledged that we had demonstrated that the remainder of the ground floor and basement did qualify as D1. The document of 22<sup>nd</sup> March 05 outlining the refusal states:

"It would appear from the submitted evidence that the use of the basement and one room at the rear of the ground floor as a Complementary Therapy Clinic has become lawful, and an application for a Certificate of Existing Lawful Use for this part of the premises only could be granted."

She goes on to say, "However the lawful use of the remainder of the ground floor would appear to be for retail purposes within Class A1 of the Town and Country Planning Order 1987".

4. This refusal arose from a misunderstanding. The entire ground floor area is an essential part of the clinic as a whole and the very limited use of that part of the building for retail has been ancillary to it's main function as a health clinic reception and waiting room.

5. It would appear that Ms Samuel, the planning officer, based her decision on an assumption that the basement rooms and one room on the ground floor exist independently of the upstairs space. The ground floor is in fact an integral part of the clinic providing reception space and waiting room for the treatment rooms. It is not possible to access the treatment rooms except through the ground floor. A small shelving unit within this area has been used for the sale of goods associated with treatments provided at the clinic (for example: herbs, aromatherapy products) but this has always been ancillary to its use as a clinic reception space. I produce a photograph as exhibit HB1 showing the unit. There are no retail sales or display units in the basement. Our retail income is a minimal proportion of the gross income of the clinic

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6. After visiting the clinic as a planning enforcement officer for Camden in June 2005 Phil Jones consulted Diane Fleming about the lawful use of the building. In his email of 9<sup>th</sup> June 2007 to me he stated:

"it seemed logical that if the basement and one room on the ground floor was used as a clinic and is lawful and the only access was through the ground floor then this would also be lawful on the balance of probabilities. The fact that a small number of retail goods are on sale may make the ground floor a mixed A1/D1". In the same email he goes on to say: "We would not advise you to apply for a certificate unless you need this for some legal reason. If you do apply you must clarify that the gf as I understand it, has been used as the reception and some sales since the clinic started trading."

7. In order to demonstrate that the ground floor has been used primarily as reception for the clinic for the last 10 years I am submitting further evidence. At page 2 of exhibit HB1 are photos taken of the Campion Clinic, occupiers of the site from 1998 to 2000. The first picture shows an awning over the front of the ground floor displaying the words "The Campion Clinic". This photo demonstrates that the ground floor and basement were part of the same clinic. The second picture shows the interior of the clinic at that time.

I make this solemn declaration pursuant to the Statutory Declarations Act 1835 conscientiously believing the same to be true

Dated this 19<sup>th</sup> day of December 2007

DECLARED at 402 Holloway RD  
this 19<sup>th</sup> day of December 2007 )  
6P2 ) 

Before me



Solicitor/Commissioner for Oaths

W. O. BOYES  
SOLICITOR  
PERCY SHORT & CUTHBERT  
402 HOLLOWAY ROAD  
LONDON N7 6PZ

**DATED**

**2007**

**STATUTORY DECLARATION**

**Percy Short & Cuthbert  
402 Holloway Road  
London N7 6PZ**

**Tel: 020 7700 0265  
REF:WOB/BODGER**

**MY DOCUMENTS/STAT DEC/BODGER**