



Ms K Dean
London Borough of Camden
Camden Town Hall Extension
Argyle Street
London
WC1H 8EQ

By email
planning@camden.gov.uk
let.001.MM.KD.20010003

12 November 2014

Dear Katrine

27 PARKWAY, CAMDEN

Further to our previous meeting we write to set out our position with respect to the pending application for a Certificate of Lawfulness of Existing Use or Development (ref. 2014/4403/P) to confirm the use at the above unit as A3 restaurant. To date we have submitted various pieces of evidence which confirm, on the balance of probability, that the unit has been operating continuously as an A3 restaurant for at least the past 10 years. The evidence comprises:

- Statutory declaration of the owner of the premises;
- Property advert showing the use as a restaurant;
- Restaurant insurance dating from 1999;
- Liquor license dating from 2005;
- Signed lease agreement dating from 1990; and
- Fire regulations certificate dating from 1997.

You have raised some queries about other information which potentially is at odds with the evidence submitted with the application. We understand this comprises:

- Business rates paid on behalf of a 'Shop and Premises';
- An answer to a question on a planning application for a new shop front; and
- An unspecified internal system at the council which indicates an entry referring to the unit as an A1 shop.

I will address each of these points below:

Business rates

Correspondence from Camden's business rates team dated 14 October 2014 (see attached) states that "for the purposes of collecting business rates tax, we are not always aware of what business is being carried out on the premises unless we have cause to visit. Or, the business name suggests." In other words

whilst every effort will be made to collect the appropriate business rates for a particular premises, the correspondence from the business rates team clearly makes the point that the business rates for a particular property is not a definitive determination of its land use for planning purposes.

Although the rating description is for a shop, that cannot be taken as evidence that the unit was not being used as an A2 café, particularly given the strength of evidence in the form of statutory declarations, photographs and fire regulation correspondence and licensing information

Planning application

You have indicated to us that you have records of a planning application for 27 Parkway which refers to the unit as being in A2 use. The only application available on Camden's online planning applications register that states that the unit is in A2 use is ref. 2014/4055/P submitted 30 June 2014 by Marsh and Parsons, the current occupier, for shop front alterations. This application form was completed by an agent on behalf of Marsh and Parsons on the basis of the proposed use. This was an error made by the agent who had no significant prior knowledge of the property. Consequently, we see no reasonable basis for the answer on a shop front planning application form to be sufficient to outweigh the significant information submitted with the application.

Internal program

You have stated that you have access to an internal program which contains a database of the use of town centre properties. We have not seen sight of the information or understand the data source of this information. I'd be grateful if you could provide this information if you think it material and of sufficient weight to counter the documentary evidence submitted with the application.

In our discussions concerning this application, you have tacitly implied that because of the rating information and the answer to a question on a shop front planning application form, that these two issues cause some doubt in the council's mind. Section 191 is clear that the test to be applied in weighing the supporting evidence is not 'beyond reasonable doubt' but

'on the balance of probability.'

Implicit in this test is recognition by parliament that there can be inconclusive and contradictory information but that of itself is not sufficient to mean that the statutory test of 'on the balance of probabilities' is not passed. Ultimately the application needs to be determined on the weight of the evidence available. The evidence submitted with the application is significant:

- Statutory declaration of the owner of the premises;
- Agent's marketing information with photographs clearly setting out the use as a restaurant;
- Restaurant Insurance Certificate dating from 1999;
- Alcohol license;

- Signed lease agreement dating for café purposes; and
- Fire regulations certificate confirming café use.

This evidence is not outweighed by incorrect rating information or the answer to a question on a shop front planning application form.

I trust you will agree that the correct test to apply is grant to the certificate where, on the balance of probabilities, the evidence supports the asserted use and that more than sufficient evidence has been submitted which more than satisfies the statutory test and that the certificate can now be issued.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alexandra Milne', with a stylized, cursive script.

Alexandra Milne

Alexandra Milne

From: Smith, Bridget <Bridget.Smith@camden.gov.uk>
Sent: 14 October 2014 11:21
To: Alexandra Milne
Subject: 27 PARKWAY - 00733002710015

Hello Alex

Thank you for your email dated 29 September 2014 regarding the above property.

You have asked that it is confirmed the premises has been operating as a café continually for the last 10 years and would like documentation to show this.

For the purposes of collecting business rates tax, we are not always aware of what business is being carried out on the premises unless we have cause to visit. Or, the business name suggests.

Therefore I am not able to confirm this property has been operating as a café continually for the last 10 years.

The property description in the National Non Domestic Rating List is 'Shop and Premises'; this has been the case throughout this period. The rateable values only change every 5 years; 2005/2010 - £10,250 and 2010 to 31 March 2014 £20,750

For further information, you may want to contact our Licencing Department to see what information they hold with regards to what the business trading was; 020 7974 4444

With regards to the rateable values and property descriptions these can be found on the Valuation Office web site; www.voa.gov.uk

I trust this clarifies the matter, however if you have any further queries please do not hesitate to contact this office.

Kind regards

Bridget Smith
Business Rates Officer
Council Tax and Business Rates
Finance
London Borough of Camden

Telephone: 020 7974 6460
Web: camden.gov.uk
Town Hall
Judd Street
London WC1H 8NH

Please consider the environment before printing this email.

This e-mail may contain information which is confidential, legally privileged and/or copyright protected. This e- mail is intended for the addressee only. If you receive this in error, please contact the sender and delete the material from your computer.