

2nd May 2019
Our Ref: 19.5042

Regeneration and Planning
Supporting Communities
London Borough of Camden
5 Pancras Square
London
N1C 4AG

24 Southwark Bridge Road
London
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T 0203 268 2018

Dear Sirs,

Re: Application for Certificate of Lawfulness for existing use at The Engine Room Gym, St Bede's Hall, Little Albany Street, London, NW1 4DY

The above application has been submitted to the Council via the planning portal, with the reference PP-07828843. The application comprises of the following documents;

- Completed application form and signed certificates;
- Site location plan;
- Evidence log;
- Evidence items – 32 in total;
- Statutory Declaration of Steve Potts, Executive Director of BKL;
- Witnessed Statements from Christopher Heron and Richard Brook;
- Planning Statement – provided by this letter;
- Planning Application fee – paid online to the Planning Portal

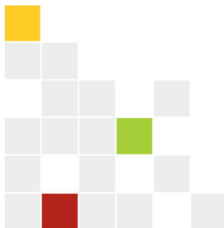
We trust that you now have all the information that you require to validate the application, but if you need any further materials or information please do not hesitate in contacting me.

Detailed assessment

This application follows a request from Raymond Yeung of the Council's Enforcement team, required to address a potential breach of planning condition. The submission demonstrates that this breach has occurred throughout and for at least 10 years, and thereby confirms that it is lawful – and so immune from any future Enforcement Action.

Planning permission was granted in 1987 (ref 8700058) for the continued use of the venue to provide a judo club and additional heath and keep-fit activities. That approval included a condition limiting the opening hours of the venue between 9am and 10pm.

In reality however the venue has been operated by multiple gym operators since that time, all of which have opened well in advance of 9am, 7 days a week. The evidence submitted with the application demonstrates clearly that the current operators have opened generally between 7am and 8am throughout the past 10 years prior to this submission. There are in addition to these general opening times many examples of earlier opening, from 6.30am.



The opening of the venue therefore does not reflect this historic planning approval, and in order to regularise the situation this application for a certificate of existing lawful use has been prepared and submitted.

As you will know, a local planning authority can grant a certificate of lawfulness for an existing use of land, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990.

Section 191 (3) states that any matter constituting a failure to comply with any condition or limitation subject to which permission has been granted is lawful at any time if a) the time for taking enforcement action in respect of the failure has expired; and b) it does not contravene any enforcement action or breach of condition notice in force. The Planning and Compensation Act 1991 confirms that in this case the relevant time period available to the authority to take Enforcement Action is 10 years, and no current notices exist. The evidence submitted shows that the breach has occurred since March 2009, over 10 years ago – and so both parts a) and b) have been complied with fully.

Paragraph 006 of the Planning Policy Guidance (ID:17c-006-20140306) states that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.....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.

The submitted evidence log clearly shows a total of 36 separate pieces of factual evidence that absolutely confirm that the venue opened before 9am on each occasion. These pieces of evidence are evenly distributed across the required 10 years, evidencing the continuous breach of the planning condition.

To provide further assurance, whilst it is extremely unlikely that opening hours varied between each piece of evidence, we have provided a further 3 witness statements. The first of these provides a sworn affidavit provided by Steve Potts, Executive Director of BKL for the past 11 years. His statement confirms that these opening times have been maintained throughout the entire period. In addition to this, we have supporting statements from Christopher Heron – Director and Richard Brook – Instructor. All statements have been witnessed, and confirm opening hours.

The quantity and variety of evidence provided, plus these 3 statements provides a very clear a precise record of the venues opening hours, and therefore there is no good reason to refuse this application. If you do however have any concerns, or any evidence to the contrary we request that you share this with us, and provide the opportunity to comment as per national planning policy requirements.

We look forward to hearing from you confirming the validation of the application, but if you require any further information, or have any other queries please do not hesitate in contacting me.

Yours sincerely



Boyer

Adam Wilkinson BSc MRTPI
Associate Director

Tel:

Email:



Boyer