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Date: 15/11/2019

Camden Planning Department
5 Pancras Square
Kings Cross
London
N1C 4AG

Dear Sir/Madam,

86 KINGSWAY, LONDON, WC2B 6AQ.

Please find enclosed an application for a Lawful Development Certificate for an Existing Use of the ground floor and basement as a Use Class A3 café/restaurant at 86 Kingsway, London WC2B 6AQ

The authorised use of these two floors was queried in correspondence and a telephone conversation between our client and your Planning Officer, John Sheehy, in September 2019, where it was stated that in his informal opinion the authorised use of the site was as an A1 Café.

This opinion was based on his understanding of the planning history of the site, retail surveys and (limited) amount of information on the layout and operation of the premises. However, to seek a formal determination of the authorised use, it was recommended that our client submit an application for a Certificate of Lawfulness of an Existing Use.

To this end we submit the requisite application, supported by the following documents:

- An email Statement by Renzo Rapacioli, the former leaseholder of the property from October 2002 to January 2013 – Document KW1;
- Extract of on-line Council Planning applications records from 2009 to 2019 for the unit – Document KW 2;
- Council on-line summary of application 2009/0085P - Document KW3;
- Council delegated report on applications 2009/0085/P and 2009/0086A – Document KW4
- Drawings showing proposed ground and basement layouts, October 2008 – Document KW5
- Various reviews of the food offer at the unit- Document KW6;
- Photographs of No Barriers to Food menu selection and internal layout – Document KW7:
- Letter from Pegasus Group 6th November 2018 – Document KW8.

In summary the above collective documents in our opinion show conclusively and on the balance of probability that the ground floor and basement of 86 Kingsway have been used as a café/restaurant (Use Class A3) since 2002 and that the Council were misled and incorrect in it being described, in a recent application, as a vacant A1 retail unit.

As evidenced by the email statement of 15th October 2019 from Renzo Rapacioli (Document KW1) his business began as Eatly Ltd trading under the business name of Dom Vito, serving hot food including cooked breakfasts, lasagne's, pizza and soups, prepared mainly in the unit's kitchen or off site and

reheated in the unit's ovens or microwave. Teas, coffees and cold food including salads etc were also available to customers who could eat in at tables and chairs on the ground floor or on outside tables and chairs. The unit was subsequently renamed No Barriers for Food but continued to operate as a café/restaurant with associated tables and chairs outside and in the basement.

The outside tables and chairs were the subject of a series of temporary planning applications from 2009 onwards, as evidenced by the extract from the Council's on-line records, submitted as Document KW2. In each application, where plans can be sourced from on line records, the related use of the unit refers to it as a café.

In 2009 a planning application (Council ref: 2009/0085/P) was submitted for alterations to the unit's return shopfronts to Kingsway and Gate Street and related corner entrance door.

The application was approved in March 2009 and the online details refer to the proposal as alterations to a café (Class A3 use). The Council on-line summary of the application, submitted as Document KW3, also states that the existing and proposed use is A3 Restaurants and Cafes.

The delegated report on the application and the related Advertisement application (Council Ref: 2009/0086/A), submitted as Document KW4, acknowledges and states that the basement and ground floor have been in use as Class A3 café/takeaway.

The internal and external layout of Eataly is shown on the October 2008 drawing No. No. 495.01 – 201 A that accompanied application 2009/0085/P, submitted as Document KW5, showing a servery and customer tables and chairs on the ground floor and a preparatory kitchen and customer toilets in the basement.

Confirmation of use of the unit as a café/restaurant is contained within on-line Eataly reviews, attached as KW6. Photographs of the menu offer when it had changed its trading name to No Barriers to Food, is provided as Document KW7, together with photographs of the layout of the ground and basement, showing the serving counter and tables and chairs.

During 2018 our client proposed the refurbishment of the unit following renegotiation of the lease and a new restaurant concept. As part of that refurbishment it was decided to change the shopfront, for which planning permission was granted under Council Ref: 2018/5920/P. Unfortunately, in the preparation of the application the agents referred in the application form to 86 Kingsway being a vacant A1 retail unit, when it is clear from all the past planning history detailed above and on the Council's on-line register of applications that it was a A3 café restaurant with associated outside tables and chairs. The application forms clearly stated that the last occupier was a cafe operator.

As has been pointed out in the agent's letter, explaining the back ground to the application, submitted as Document KW8, no change of use issues were raised when the planning application and associated signage proposals were clearly for a A3 use.

The reason it was vacant was in anticipation of receiving planning permission and getting the refurbishment works underway. It is awaiting determination of this application for a Lawful Development Certificate for an Existing use before reopening.

As previously stated it is considered that on the balance of probability the ground floor and basement of 86 Kingsway have been used as a café/restaurant since 2002 and that a Lawful Development Certificate for an Existing Use should be granted.

property/client name etc. if applicable. double-click here and delete if not

Please get back to us however if you require any further information.

Yours faithfully,

Bidwells LLP.

Enclosures.