

16th March 2021



Development Management
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8ND

Dear Sir/Madam,

RE: LAWFUL DEVELOPMENT CERTIFICATE – 177 FINCHLEY ROAD, LONDON NW3 6LB

Please find enclosed an application for a lawful development certificate submitted under s.192 of the Town and Country Planning Act 1990 on behalf of Pure Gym Limited ('PureGym'). The lawful development certificate is sought to confirm that the existing commercial unit at 177 Finchley Road benefits from unrestricted use within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) and that planning permission is not, therefore, required for its use as a gym.

Background

The application site is located to the south side of Finchley Road (A41) within the boundaries of the town centre at Swiss Cottage. It comprises a ground floor/basement unit that forms part of a seven-storey building known as Chalford House. There is service access to the rear via Fairfax Road. The current building is understood to date from the 1950s or 1960s, prior to which the site was occupied by public baths. The unit has been used for various retail activities including as a Sainsbury's supermarket and as a Woolworths store. It is currently occupied by Iceland which now intends to withdraw from the site.

PureGym, the UK's largest health and fitness operator, now wishes to take occupation of the unit to operate a gym from the site. It provides members with affordable and flexible access to an excellent range of fitness equipment and classes, 24 hours a day and on a no-contract basis. The nearest existing PureGym sites are at Camden High Street and Marylebone. This application seeks to confirm that PureGym's occupation of the application site would be lawful and would not require planning permission.

We understand that the existing building was developed under the terms of a Development Order issued by London County Council in 1939. The Council provided us with a copy of this Order at the pre-application stage and it is enclosed with this application. The following planning history is also relevant to the application site:

- 15739 – Installation of a new shop front (March 1973)
- PW9902199 – Installation of new shop front (March 1999)
- 2011/0774/P – Installation of new shop front and 8 air conditioning units (May 2011)
- 2012/1806/P – Alterations to shopfront including replacement of doors (May 2012)
- 2012/4215/P – Installation of wall mounted and floor mounted condenser units and louvres (September 2012)

Lawfulness of the Proposed Use

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1st September 2020 and have amended the Use Classes Order to introduce Class E

('Commercial, Business and Service'). This includes previous Class A1 (retail) uses as well as number of other commercial uses, including gymnasiums which previously fell within Class D2. As such, the existing and proposed uses of the application site both now fall within the same use class. Section 55(2)(f) of the Town and Country Planning Act 1990 confirms that the use of buildings or land for any other purpose within the same use class does not involve development for the purposes of the Act. As such, the introduction of a gym to the existing retail unit would not require planning permission unless the normal operation of the Use Classes Order has been restricted by an existing planning permission that relates to the site (i.e. is restricted by a planning condition that continues to take effect).

As noted above, the existing building at the application site is understood to have been developed under the terms of a Development Order granted by London County Council under the Town and Country Planning (General Interim Development) Order 1933 and London Building Act 1930. This 'permission' sets out broad parameters for the redevelopment of the site and is subject to three 'conditions' none of which seek to control the future use of the site. We note that whilst the original site of the public baths fronting Finchley Road was redeveloped as Chalford House, the proposed site of the replacement baths and assembly hall has now been developed for residential uses at Naseby Close.

The other available planning history dates back to 1973, with the most recent permission granted in 2012. All these applications relate to minor works and none of the permissions introduce any new controls on the use of the application site.

In these circumstances and on the balance of probabilities, there would not appear to be any restrictions on the normal operation of the Use Classes Order. It is therefore clear that Section 55(2)(f) the Town and Country Planning Act 1990 is applicable in this instance and the use of the existing commercial unit at 177 Finchley Road as a gym within Class E will not constitute development or a material change of use requiring planning permission.

Summary

This application seeks a lawful development certificate to confirm that the proposed use of the existing commercial unit at 177 Finchley Road as a gymnasium does not require planning permission. Further to the recent changes to the Use Classes Order introduced in September 2020, former Class A1 and Class D2 uses now both fall within Class E. Planning permission for change of use is not therefore required and nothing in the planning history of the application site indicates that the normal operation of the Town and Country Planning (Use Classes) Order 1987 has been restricted.

We therefore request that the Council issues a lawful development certificate under s. 192 of the Town and Country Act 1990 to confirm that the application site benefits from unrestricted Class E use and that its proposed use as a gym would not involve a material change of use requiring planning permission.

If you have any queries or require any further information, then please don't hesitate to contact me.

Yours sincerely,



JONATHAN WADCOCK
Director