

SECTION 192 OF THE TOWN AND COUNTRY ACT 1990 (as amended)

**STATEMENT IN SUPPORT OF APPLICATION FOR A CERTIFICATE OF LAWFULNESS OF
PROPOSED USE**

**LILIAN BAYLIS HOUSE, 165 BROADHURST GARDENS, LONDON, NW6 3AX AS A SCHOOL
FOR COGNITA SCHOOLS LIMITED**

1. This application is made under Section 192 of the Town and Country Planning Act 1990 (as amended) to the local planning authority for a certificate of lawfulness to confirm that the proposed use of Lilian Baylis House, 165 Broadhurst Gardens, London NW6 3AX ('the Property') as a school would be lawful in respect of planning. The applicant considers this to be the case for the reasons set out in this statement.
2. Although the onus of proof is on the applicant to establish whether the proposed use is lawful in respect of planning, the relevant standard that applies here is the 'balance of probabilities' and not the higher standard of 'beyond reasonable doubt'.
3. The applicant's own evidence does not need to be corroborated by 'independent' evidence in order to be accepted as held in *F W Gabbittas v Secretary of State for the Environment and Newham LBC (1985) JPL 630*. If the local planning authority has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less probable, then there is no good reason to refuse the application.
4. Section 55(2)(f) of The Town and Country Planning 1990 (as amended) provides that in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section [i.e. the Use Classes Order], the use of the buildings or other land, or of any part of the buildings or other land, for any purpose in the same class is not to be taken for the purposes of the Act to involve development of the land.
5. The applicant contends that the current authorised planning use of the Property falls within F1 (a) of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 ('UCO'). With the exception of crèches and day nurseries, educational uses that fell within D1 to the predecessor of the above regulations now fall within F1 (a).

F1 (a) is not a closed list. A property that is used primarily for the provision of education falls within F1 (a).

6. The Property was formerly known as Decca Studios and was a recording facility controlled by Decca Records up to 1980. It was acquired the following year by the English National Opera. The links below set out the history of the Property. As far as we are aware, the Property has never been used for performances open to members of the public. The information from the links set out below, confirms that the Property has been used primarily for rehearsals and practice space by English National Opera ('ENO') as an educational training centre.
7. The existing floorplans of the Property are attached.
8. The vast majority of the space on the lower ground floor is made up of two studios rooms with the rest of the space on this floor comprising various storage areas for clothes, costumes, hangers, shoes and technical equipment and a music store. There is also an intake room as well as a restroom, catering and kitchen facilities ancillary to the main educational training centre use.
9. Most of the upper ground floor is made up of studio areas as well as three coaching rooms. There are also two fitting rooms, a sample room and some administration space.
10. There is additional studio space at first floor level as well as various storage areas, a meeting room and some further administration space.
11. All of the information that has been obtained in respect of the Property shows that it has been used as an educational production and training centre for the ENO during its ownership since the early 1980s. This use falls within F1 of the UCO and therefore the continued use of the Property for the provision of education falling within Class F1 of the UCO would be lawful in respect of planning.
12. The proposed use of the Property as a school falling within Class F1 of the UCO would therefore be lawful in respect of planning.

<http://westhampsteadlife.com/2016/10/25/vera-lynn-to-verdi-go-backstage-at-the-enos-remarkable-building/18062>

https://en.wikipedia.org/wiki/Lilian_Baylis

4 August 2021

EMW LAW

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