

16 November 2022  
Sunlight House Covering Letter



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**Submitted via Planning Portal PP-11700028**

Dear Sir / Madam

**Application for Certificate of Lawfulness of Existing Use (CLUED) to Certify the Building is Lawfully within Use Class E  
Sunlight House, Quay Street Manchester, M3 3JZ**

## Introduction

We write on behalf of our client, Kinrise (Sunlight Limited) to apply for a Certificate of Lawfulness of Existing Use or Development (CLUED) under Section 191 of the Town and Country Planning Act 1990 as amended by Section 10 of The Planning and Compensation Act 1991 with regards to part of Sunlight House, Quay Street, Manchester.

This application relates to part of the ground floor, basement and sub-basement of Sunlight House which is currently in use as a gym/heath studio for visiting members of the public.

A site location plan is enclosed with this letter and shows the exact part of the building this CLUED relates to. This application is seeking to confirm the lawful use of the building as operating within use Class E, given that it has been in this use for a continuous period of 10 years.

The application comprises this covering letter and the following documents:

- Site Location Plan – 115- ANP-XX-00-DR-AX-00001
- Existing Ground Floor Plan – 126-ANO-SH-B1M-DR-AX-01000
- Existing Basement Floor Plan – 126-ANO-SH-B1-AX-01998
- Existing Basement Mezzanine Floor Plan – 126-ANO-SH-B1M-DR-AX-01999
- Evidence information supporting the use (listed below)

The planning application fee of £462 has been paid electronically via the Planning Portal.

## Background

Sunlight House is located on the corner of Quay Street and Little Quay Street in the city centre of Manchester. The part of the building which relates to this CLUED fronts Quay Street and incorporates part of the ground floor, basement and sub-basement.

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Sunlight House is a Grade II listed building completed in 1932 by Joseph Sunlight, architect and developer, as the headquarters for his property business, with offices and shops to let. At the time, it was Manchester's tallest building.

The planning history of the part of the building in question, confirms that the part of the building this CLUED relates to was granted permission to change use from a night club to health club, November 20 1990 (MCC Planning reference: 037880).

The use of the referred part of Sunlight House as a health club/ gym has been consistent since 1991 and is indeed currently still in use.

This application only relates to those areas of the building identified in the enclosed plans.

### **Lawful Nature of the Existing Development**

Section 191(a) of the Act states that an application for a Certificate of Lawfulness of Existing Use or Development should be submitted if '*...any person wishes to ascertain whether...any existing use of buildings or other land is lawful*'.

In this case, the applicant wishes to certify that the established use of part of the ground floor, basement and sub-basement of Sunlight House which is now within Class E and that any operation in that Class is lawful, namely:

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*
- (c) for the provision of the following kinds of services principally to visiting members of the public—*

- (i) financial services,*
- (ii) professional services (other than health or medical services), or*
- (iii) any other services which it is appropriate to provide in a commercial, business or service locality,*

- (d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,*
- (e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,*
- (f) for a crèche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*
- (g) for—*

- (i) an office to carry out any operational or administrative functions,*
- (ii) the research and development of products or processes, or*
- (iii) any industrial process,*  
*being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*

On 21 July 2020, Statutory Instrument 2020 No. 757 was laid before parliament by the Government. It comprises a number of changes to the Town and Country Planning (Use Classes) Order 1987 (the "**Use Classes Order**"). The changes outlined within the Statutory Instrument became effective on 1 September 2020.

The use of the building was established by consent reference 037880 as a health club. This operation was formerly classified within Use Class D2 (assembly and leisure) of the Use Classes Order prior to 1 September 2020. For reference, consent 037880 has been submitted with this application.

Statutory Instrument 2020 No. 757 introduces amendments to the Use Classes Order which seeks to simplify the classification of commercial uses. The effect of the new legislation is to revoke Use Classes A, B1 and D and replace those classes with a new, single classification covering 'Commercial, business and service' uses (Class E).

As the Local Planning Authority will be aware, moving from one operation to another within the same use classification is not development as defined by Section 55(2)(f) of the Town and Country Planning Act 1990 ('the Principal Act'). Section 55(2)(f) states:

- (2) *The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land –*
- (f) *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, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.*

It therefore follows that the existing lawful use of part of the ground floor, basement and sub-basement of Sunlight House is for any operation within Class E of the Use Classes Order and that the use of all of the floorspace within the area shown on the supporting plans is now correctly described as being within Class E 'commercial, business and services'.

## Evidence

As the building has been used for over 20 years as health club/gym it therefore meets the time requirements of the legislation.

Planning Portal Application Guidance states that as part of an application for a CLUED the applicant needs to show proper evidence that the use has been carried on continuously for a period of 10 years. Evidence has been provided which is outlined in the table below.

| Evidence Date                    | Evidence Document                                                                                                                                          |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20 Nov 1990                      | Planning Permission - Change of use of ground floor from a nightclub to a health club (MCC ref: 037880)                                                    |
| 30 Nov 1990                      | Listed Building Consent - Internal alterations in connection with change of use of ground floor from nightclub to a health club. (MCC Ref: 037870)         |
| 10 Nov 1997                      | Listed Building Consent - Replacement of railings to pool area in basement (MCC Ref: 052934/LO/CITY1/97)                                                   |
| 09 Nov 2013                      | Bannatyne Fitness Ltd - Agreement for Surrender and Lease                                                                                                  |
| 02 January 2014                  | Bannatyne Fitness Ltd - Signed lease for lower ground and ground floor                                                                                     |
| 02 January 2014                  | Bannatyne Fitness Ltd - Land Reg Transfer of Lease TR1 form                                                                                                |
| 09 June 2020                     | Bannatyne Fitness Ltd - Access Licence relating to gym premises on the basement, lower ground and ground floors of Sunlight House, Quay Street, Manchester |
| From July 2014 to September 2022 | Trip Advisor Reviews for Bannatyne Spa                                                                                                                     |

|                             |                                                                                     |
|-----------------------------|-------------------------------------------------------------------------------------|
| <b>July 2008 to Current</b> | Goggle Map Street View Images showing Bannatyne Occupation                          |
| <b>16 November 2022</b>     | Timestamped photographs demonstrating it is still in use as a fitness facility/ gym |

This evidence demonstrates that the building has been used for health and leisure purposes for a period of 20 years. Subsequently its lawful use is now Class E.

### **Summary**

Part of the ground floor, basement and sub-basement of Sunlight House has been used as a health club/ gym for over 20 years, which falls within Use Class E of the Use Class Order. Evidence has been produced that clearly demonstrates this.

As such in accordance with Section 191 of the Town and Country Planning Act 1990 as amended by Section 10 of The Planning and Compensation Act 1991 a Certificate of Lawfulness of Existing Use or Development is respectfully requested to formalise this use.

Should you have any questions please do contact me using the details above.

Yours faithfully

Jay Patel  
Director