



App No: **22/P0991**

Officer: **David Gardener**

Expiry Date: **20 May 2022**

Location:

**122 The Broadway
Wimbledon
London
SW19 1RH**

Description:

**APPLICATION FOR A LAWFUL DEVELOPMENT
CERTIFICATE IN RESPECT OF THE PROPOSED
CHANGE OF USE OF GROUND FLOOR (PLUS
MEZZANINE) UNIT FROM CLASS E (RESTAURANT) TO
CLASS E (INDOOR SPORT, RECREATION AND
FITNESS AND OPERATION ON A 24 HOUR BASIS).**

Plans:

PL000 & PL001(A)

Report:

{1. SITE AND SURROUNDINGS

The application site comprises a ground (plus mezzanine) floor commercial unit located in a seven-storey mixed use development. The unit is currently vacant but has a Class E use, having previously been used as a restaurant. The site is located on the north side of The Broadway, at the junction with Stanley Road, Wimbledon. The property is not located within a conservation area.

2. CURRENT PROPOSAL

The applicant seeks a Certificate of lawful use or development for the proposed change of use of both the ground and mezzanine floors from a Restaurant use (Use Class E(b)), to indoor sport, recreation or fitness (Use Class E(d)). It is proposed to operate the proposed use on a 24 hour basis.

3. PLANNING HISTORY

The following planning history is relevant:

05/P0709 - Redevelopment of site consisting the erection of a building comprising basement, ground, part 3, 4, 5 and part 6 storey building for use as commercial floor space (class A1, A2, A3, A4, and/or A5 uses), at ground floor level, office use (class B1) accommodation and 86 residential units with associated car parking and amenity space. Granted - 31/05/2007

09/P2791 - Application for the variation of condition 14 attached to LBM planning permission 05/P0709 (dated 31/05/07) to allow commercial unit 2 to change from A1 use to A3 (restaurant) thereby reducing A1 floorspace from 50% to 33%. Granted - 21/01/2010

22/P0990 - Proposed relocation of ground floor entrance and reinstatement of glazed shopfront to existing entrance location. Registered.

4. CONSULTATION

The Council are not required to consult neighbouring occupiers or display a site notice for Applications for a Certificate of Lawfulness. Notwithstanding, 4 objections have been received on the following grounds:

- Concerns about noise from the operation of equipment/the dropping of weights onto the floor; vibration; noise arising from people coming to or leaving the premises especially late at night;
- permitted hours of operation; noise from any music playing inside the premises; noise from the operation of new lifts to be installed inside the premises; noise from the toilet facilities located on the proposed mezzanine; people loitering outside the premises to smoke, cool off after exercise or simply to chat; dropping of litter and cigarette butts in the entrance way reducing the appearance of the property generally.
- Cladding issues already disrupting residents;
- No details of soundproofing;
- Not suitable for 24hr use;
- Not clear if it can transfer to Class E or Class E(d);
- Existing condition 9 on 2005 consent limits opening hours. It is common sense that the same restriction on trading hours should apply now to use as a gym in order to protect the amenity of leaseholders above.
- The application makes no mention of what provision will be made for air conditioning or ventilation which is almost always needed in gyms. Where will the equipment be sited (internally and externally) and what impact will this have on leaseholders/residents? It is worth emphasising that flats located at the back of Block B (facing the internal courtyard) have been plagued for years by noise arising from extractor fans/ventilation units belonging to the restaurant and we are keen to ensure that history doesn't repeat itself.
- Too close to residential flats;

5. POLICY CONTEXT

N/A

6. PLANNING CONSIDERATIONS

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and building into various categories known as 'Use Classes'. 'Change of use' can occur within the same Use Class without requiring planning permission. This 1987 Order was amended under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

In this instance both the existing use (Restaurant) and proposed use (indoor sport, recreation or fitness) fall within the same use Class (Class E). There are also no conditions restricting the change of use. Condition No.14 of the original planning permission (LBM Ref: 05/P2971), which was varied under LBM Ref: 09/P2791, requires a minimum of 33% of the ground floor is retained in retail use. The application proposes a change of use of the restaurant at ground floor level (plus mezzanine) with the retail use retained. With regards to opening hours, condition 9 of the original permission limits the hours of use of the A3 (restaurant), A4 (Drinking establishments) and A5 (Hot food takeaways) uses only, and not an indoor sport, recreation or fitness use such as that proposed under Class E. It is therefore considered planning permission is not required for the change of use or 24 hour opening. Officers note the concerns raised in representations on the application, however, any noise issues resulting

from the new use would be a nuisance matter which would be dealt with under Environmental Health legislation.

7. CONCLUSION
Issue Certificate of Lawfulness.

Recommendation:
Issue Certificate of Lawfulness

Conditions

1	A Non Standard Condition	The operations comprising the change of use from Restaurant (Class E(b)) use to indoor sport, recreation or fitness (Use Class E(d)) is permitted under The Town and Country Planning (Use Classes) Order 1987 (as amended).	
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Design and Plans monitoring information checked: YES/NO

Recommendation Agreed:
Case Officer: D.Gardener

Team Leader / DC Manager: T.Bryson
