



Officer Report

Application Number:	HGY/2023/3175
Application Type:	Lawful development: Proposed use
Address:	Shop, 20 Crescent Road, Wood Green, London, N22 7RS
Proposal:	Certificate of Lawfulness: Change of use within Class E from a shop to a gym.
Case Officer:	Oskar Gregersen
Valid Date:	11/12/2023
Applicant:	Viner
Agent:	Mr - Stern

RECOMMENDATION

Permitted Development

1. DESCRIPTION OF APPLICATION

This is an application for a certificate of lawfulness to confirm that the change of use of this current unit from use as retail unit to gym does not require planning permission, as a change in uses in the same group by virtue of s.55(2)(f) TCPA 1990 does not amount to development.

2. RELEVANT LEGISLATION AND GUIDANCE

The application itself is made pursuant to S192(1)(b) of the TCPA 1990, which allows for a certificate to be issued by the Local Planning Authority to determine if a proposed operation (in this instance the change of use of the premises) would be lawful.

When an application for a CLOPUD is made, the Council is required to consider the lawfulness of the use at the time of the application and to issue a certificate if it is satisfied that it should do so. Lawfulness is defined by S192(2) of the Act as follows:

- the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

Section 55 (2)(f) of the 1990 Act notes that uses of land shall not be taken to involve development of land (and therefore not require planning permission) where:

- 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 land, for any other purpose of the same class.
- The 1990 Act excludes from the definition of development (and hence from planning control) any change of use where both the existing and proposed uses fall within the same single class in the order.
- The 1987 Use Classes Order states at Section 3(i)
- Subject to the provisions of this Order, where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land.

On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987 (UCO). The UCO created a new broad 'Commercial, business and service' use class (Class E) which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices and other business uses (B1) use classes.

3. ANALYSIS/ASSESSMENT

Plans have been submitted that show that the internal layout of the site is not proposed to change, rather the use will change from retail unit to exercise gym. These two uses are both within Class E, and as such the LPA consider that such a change in use would not constitute development by virtue of 55(2)(f) of the Town and Country Planning Act 1990.

A condition was imposed saying that the retail floorspace shall solely be used for Class A1 or Class A2 purposes within Schedule to the Town and Country Planning Use Classes Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification, unless otherwise agreed in writing by the Local Planning Authority. It is accepted that given Classes A1 & A2 are now obsolete, the lawful use of this site would be Class E, for which a broader array of uses would be possible.

4. RECOMMENDATION - GRANT CERTIFICATE

The Council hereby certify that the change of use here from retail unit to gym would not constitute development by virtue of 55(2)(f) of the Town and Country Planning Act 1990.