



PLANNING STATEMENT

Certificate of Lawfulness for Existing Use of the Property

22 Palace Road, London, N11 2PS

- 1.1 UPP Architects + Town Planners have been instructed by the applicant to prepare and submit an application for a Certificate of Lawfulness for Existing Use or Development (CLEUD) to the Local Planning Authority of the London Borough of Haringey in respect of the property at 22 Palace Road, London, N11 2PS ('The Property').
- 1.2 This application is made on the basis that the existing use of the property would fall within the Class E floor space (previously Class B1) and has operated as such in excess of the last 10 years.
- 1.3 It is noted that whilst the Levelling Up Bill Adopted in October 2023 changes some time scales, as this is a matter relating to commercial use, the alterations to the legislation are not relevant in this instance.

2. Legal Background

- 2.1 Section 171A (1) of the Town and Country Planning Act 1990 states that: "For the purposes of this Act –
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with a condition or limitation subject to which planning permission has been granted; constitutes a breach of planning control".
- 2.2 Section 171B (1) states that: "Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed."
- 2.3 Section 171B (2) states that: "Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach".
- 2.4 Section 171B (3) states that: "In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach".
- 2.5 Under section 191 of the Town and Country Planning Act 1990 a person may make an

application to the local planning authority for a certificate of lawfulness of existing use, which shall be granted provided information is provided to the local planning authority satisfying them of the lawfulness of the use at the time of the application. A use is considered to be lawful if no enforcement action may be taken against it.

- 2.6 It should be noted that this certificate is seeking confirmation on the specific use class rather than the length of time it has been in use. Nevertheless, it is submitted from the supporting evidence that the Class E (pre 2020, Class B1) Use has been in existence on this site in excess of 10 years.

Balance of Probability Test

- 2.7 In *Re H and others (Minors)* [1996] AC 563, it was held that "the balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not" (emphasis added). Expressed in percentage terms, if a judge concludes that it is 51% likely that the claimant's case is right, then the claimant must be successful.

3. Analysis

- 3.1 22 Palace Road, London, N11 2PS (the "Property") is registered under land registry title number EGL304631.
- 3.2 The property comprises a two-storey end-of-terrace, white painted building which is used for commercial purposes. The property benefits from single storey buildings to the rear. Although the property is commercial in terms of its use, the surrounding properties are predominantly residential in character.
- 3.3 The original lawful use of the property is commercial. This application is made on the basis that the use of the property falls within the Class E (previously Class B1a) Use Class and has done in excess of 10 years.
- 3.4 Class E Part A of Schedule 2 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 states in part g as follows:
“(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.”

Therefore, in order to demonstrate that the property falls within Class E it needs to be shown that it can operate in a residential area without having an adverse impact on neighbouring amenity in terms of noise, fumes, smell etc.

3.5 The following evidence is submitted in support of the application as appendices to this planning statement:

- Annual returns for the property from 2003, 2015, 2016 and 2023 describing the use as wholesale with the address listed as 22 Palace Road in each set
- Company valuation from 2023 describing the use as wholesale
- Evening Standard advert describing the use as wholesale optical goods
- Advert from The Gazette listing the use as non-specialised wholesale trade
- Advert from Kompas online stating that the use is wholesale medical equipment
- Online advert from 2022 advertising its products
- Advert for medical products
- LinkedIn Advert demonstrating that they are online medical distributors
- Companies House Classification of SIC codes
- Office photos which show no manufacturing
- Accounts for Warwick Evans Optical Company 1995 and 2000 which is now NRK medical and lists its primary function as importers and wholesalers of optical equipment
- Screenshot from website demonstrating that they have been operating since 1960

3.6 It is also submitted that the existing use does not fall within the B2 use class as no manufacturing has ever taken place on the site. As evidenced in the submitted drawings as well as the repeated description of the company as importers and wholesalers it implies that manufacturing does not and did not take place on site.

3.7 The classification of a building is a matter of fact and degree and is not dependent on the materials or size of the unit. It is submitted that the property has operated as a wholesale business successfully in a residential area without any noise complaints and did not operate a use that could be construed as intensive as no machinery



was involved. Furthermore, the timescales and evidence associated with the site demonstrate that the use has been in existence for the last 20 years +.

- 3.8 In order for the Local Planning Authority to issue a Certificate of Lawfulness for the existence of the commercial use, the onus is on the applicant to submit evidence that is sufficient to demonstrate on the balance of probability.

4. Conclusion

- 4.1 In light of the evidence provided in support of this application it has been demonstrated, on the balance of probability that the use of the property as importers and wholesalers of medical equipment would constitute a use that would fall within Class E (part g) use class, especially as it was able to operate in a highly residential area without noise complaint and has been in existence significantly in excess of 10 years.
- 4.2 It is therefore considered that in accordance with Section 171B (1) of the Town and Country Planning Act 1990, that a Lawful Development Certificate for Class E use should be granted in this instance.