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2024/1063

Mr Richard Andrews

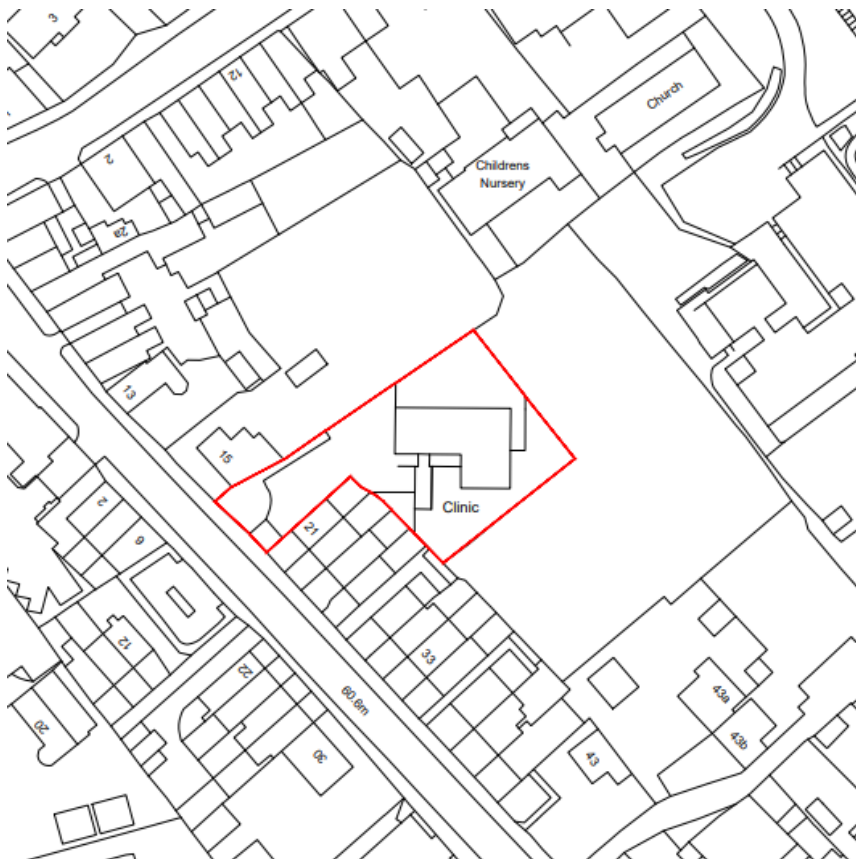
Royston Clinic, Church Street, Royston, Barnsley, S71 4QU

Lawful development certificate for a proposed change of use from Day Nursery (Class E(f)) to kickboxing gym (Class E(d)).

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### Site Description

The application relates to a backland plot to the north and north-east of a row of terraced dwellings. The development site accommodates an existing vacant single storey L-shaped building which was previously used as a Health Clinic and a Children's Nursery. Vehicular access is taken between 15 Church Street and 21 Church Street with areas of hardstanding to the north and west of the building and soft landscaping to the east and south. Residential gardens abut the development site to the north, east and south, and the rear elevations of neighbouring properties are to the west and south-west. The surrounding area is principally residential, but the commercial centre of Royston is located nearby to the north, north-east and north-west. Vegetation in the site is overgrown, and the building is falling into a state of disrepair.





This application is for a Lawful Development Certificate under Section 192 of the Town and Country Planning Act 1990 and seeks confirmation that the proposed change of use from a Nursery (Class E(f)) to a kickboxing gym (Class E(d)) is lawful pursuant to the Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and does not therefore require planning permission.

Historic images on Google Streetview show that the building in question was used as a Health Clinic from at least 2009 – 2012, and as a Nursery from at least 2019. The building in question then appears to have been vacant since at least 2021.

The Town and Country Planning (Use Classes) Order 1987 originally established the use class of a Health Clinic as Class D1(a) and a Nursery as Class D1(b); however, this was amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, effective from 1st September 2020, which established the reclassification of these uses as Class E(e) and Class E(f) respectively, under Schedule 2, Part A.

Considering the above, it is reasonably concluded that the building has an established Class E use. The building has been used to accommodate multiple Class E uses for more than ten years, and as such, is therefore exempt from planning enforcement action as set out by Section 171B, Paragraph 1(a) of the Town and Country Planning Act 1990 (as amended).

Schedule 2, Part A of the Town and Country Planning (Use Classes) Order 1987 as inserted by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 sets out the following Class E (Commercial, Business and Service) uses.

***Class E. Commercial, Business and Service***

*Use, or part use, for all or any of the following purposes—*

- 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 or use as a swimming pool or skating rink, 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 creche, 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.*

The proposed kickboxing gym use falls under Class E(d) which relates to indoor sport, recreation or fitness, not involving motorised vehicles or firearms or use as a swimming pool or skating rink, principally to visiting members of the public.

Section 3, Paragraph 1A of The Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 states that:

*“Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in—*

- a) Part B or C of Schedule 1, or*
- b) Schedule 2,*

*the use of that building or that other land, or if specified, the use of part of that building or the other land (“part use”), for any other purpose of the same class is not to be taken to involve development of the land.”*

A building or land with an established Class E use can therefore change to any other purpose within the same use class without planning permission. In this instance, the proposed change of use from a Nursery (Class E(f)) to a kickboxing gym (Class E(d)).

A supporting statement accompanying this application for a Lawful Development Certificate states that no external works are proposed to the building, with only alterations to the internal layout being carried out. Purely internal alterations are lawful pursuant to Section 55(2)(a)(i) of the Town and Country Planning Act 1990 (as amended).

## Consultations

Legal	No response.
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## Representations

No neighbouring properties were consulted on this application.

## Assessment

It is reasonably concluded that the building in question benefits from an established Class E use. The building has been used to accommodate multiple Class E uses for more than ten years, and as such, is therefore exempt from planning enforcement action as set out by Section 171B, Paragraph 1(a) of the Town and Country Planning Act 1990 (as amended).

Pursuant to Section 3, Paragraph 1A of The Town and Country Planning (Use Classes) Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, a building or land with an established Class E use can change to any other purpose within the same use class without planning permission. In this instance, the proposed change of use from a Nursery (Class E(f)) to a kickboxing gym (Class E(d)).

Pursuant to Section 55(2)(a)(i) of the Town and Country Planning Act 1990 (as amended), purely internal alterations are lawful and do not require planning permission.

Considering the above, the proposed change of use from a Nursery (Class E(f)) to a kickboxing gym (Class E(d)), and the works required to facilitate the new use, is concluded to be lawful and therefore, the Certificate of Lawful Development should be granted.

**Recommendation -  
Approve**