

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT**

SCHEDULE 4

**TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191 (as
amended by section 10 of the Planning and Compensation Act 1991)**

**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (WALES) ORDER 2012**

**REFUSAL OF CERTIFICATE OF LAWFUL
USE OR DEVELOPMENT (EXISTING)**

The Neath Port Talbot County Borough Council hereby certify that on 18 December 2023 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged red on the plan attached to this certificate was not lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

That P2023/0757 is the only permission relevant to the building and use and was granted for the 'Retention of building for D2 use'. Which included the following condition;

The building shall be used for solely for a Class D2 Use in association with the gym and for no other purpose (including any other purpose in Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification).

Reason:

In order that other changes of use can be assessed in the interests of amenity and to accord with Policies SC1 and EC2, EC3, EC4 of the Neath Port Talbot Local Development Plan.

As such planning permission would be required to change the use of the building to an A1 use.

And;

It is considered that the applicant has failed to demonstrate that a stand alone sub-let barber shop is an ancillary use to the gym, and that as found in case law constitutes an 'extraordinary activity' which cannot be considered ancillary, in addition to the facts of the case, it is considered that the use of the outbuilding as a barber shop would require planning permission.

The Neath Port Talbot County Borough Council cannot therefore issue a Certificate for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended)

Reference: P2023/0914

Signed:



Ceri Morris – Head of Planning & Public Protection

Date: 20/08/2024

First Schedule P2023/0914 Existing Lawful Development Certificate
Certificate of lawful development (existing) for the use of an ancillary
building as a barber shop ancillary to the gym (D2)

Second Unit 9 Gym
Schedule Quay Rd
 Neath
 SA11 1SL

Notes

- (1) This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended).
 - (2) It certifies that the use specified in the First schedule taking place on the land described in the Second Schedule was not lawful, on the specified date and, thus, was liable to enforcement action under section 172 of the 1990 Act on that date.
 - (3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
 - (4) The effect of the certificate is also qualified by the proviso in section. 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.
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IMPORTANT INFORMATION: TOWN AND COUNTRY PLANNING ACT 1990

The applicant's attention is drawn to the notes below.

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Welsh Government under Section 78 of the Town and Country Planning Act 1990 (as amended).
2. You can also appeal to the Welsh Government against a decision to refuse permission or grant subject to conditions in respect of applications made for :- Listed Building or Conservation Area Consent; Consent under a Tree Preservation Order; Advertisement Consent.
3. You can also appeal If your application for a Certificate of Lawful Existing Use or Lawful Proposed Use is partly or wholly refused or is granted differently from what you asked for (under Section 195/196) of the Town and Country Planning Act 1990 (as amended).
4. If you are aggrieved of the LPAs decision, the following deadlines apply for appeals to be submitted to the Welsh Government (from the date of the Council's decision):-
 - Planning Permission (with the exception of Minor Commercial and Householder applications – see below) Within 6 Months
 - Householder Appeal ^{see endnote i} Within 12 weeks
 - Minor Commercial Appeal ^{see endnote i} Within 12 weeks
 - Listed Building or Conservation Area Consent appeals Within 6 months
 - Tree Preservation Order (TPO) Consent Within 28 days
 - Advertisement Consent Within 8 weeks
 - Certificate of Lawfulness of Existing (Section 191) or Proposed (Section 192) Use or Development Within 6 months
 - Hazardous Substances Consent Within 6 months
5. Appeals must be made on a form which is obtainable from the Planning & Environment Decisions Wales, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ – Tel 0300 060 4400, or online at <https://planningcasework.service.gov.wales/>.
6. The Welsh Government has power to allow a longer period for the giving of notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
7. The Welsh Government is not required to entertain an appeal if it appears to them that permission for the proposed development could not have been granted having regard to the statutory requirements to the provisions of the development order, and to any directions given under the Order. They do not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by them.
8. If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Welsh Government, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the County Borough Council, in which the land is situated, as the case may be, a **purchase notice** requiring that Council purchase his interest in the land in

accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Making an Appeal

9. Please note that for all applications received by the LPA after 5th May 2017, it is now a requirement that any appeal made to the Planning Inspectorate (other than Householder and Minor Commercial Appeals, and appeals against refusal to grant advertisement consent) must be accompanied by all the information and evidence you intend to rely upon (a **“full statement of case”**). You must also send a copy of the notice of appeal and full statement of case to the LPA.
10. In addition, for ‘planning appeals’ an amendment to an application following notice of appeal may only be made to correct an error.
11. Additional details and information on making an appeal to the Welsh Government is available from the Planning Inspectorate at the above address and website. The relevant documents are entitled “making your planning appeal” and “planning appeals Public Local Inquiries”.
12. Further correspondence regarding this application should bear the reference number quoted on the top of the decision notice.

THIS NOTICE RELATES ONLY TO A PLANNING DECISION AND DOES NOT RELATE TO OTHER LEGISLATION INCLUDING ANY LEGISLATION UNDER:

- BUILDING REGULATIONS – Please contact buildingcontrol@npt.gov.uk or 01639 686820 to discuss all aspects of the service that is offered by Building Control
- HIGHWAY LEGISLATION

IF PLANNING CONSENT HAS BEEN GRANTED IT IS ADVISABLE TO ESTABLISH WHETHER ANY OTHER FORM OF CONSENT IS REQUIRED AND TO OBTAIN SUCH CONSENT BEFORE COMMENCING DEVELOPMENT

ⁱ Please see the [Town and Country Planning \(Referred Applications and Appeals Procedure\) \(Wales\) Regulations 2017](#) for appeal procedures and for full definitions of:

- *“householder application”* (essentially an application for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or change of use to enlarge the curtilage of a dwelling house)
- *“householder appeal”* means an appeal in relation to a householder application, but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.
- *“minor commercial application”* (essentially relates to existing buildings of no more than 250 square metres gross external floor space at ground floor level, currently in use for any of the purposes set out in Schedule 1A to The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2015 which is an application for change of use from Class A1 to A2 or A3; or Class A2 to A3); or the carrying out of building or other operations to a shop front.
- *“minor commercial appeal”* means an appeal in relation to a minor commercial application but excludes an appeal against conditions on the grant of planning permission; or an appeal which is accompanied by an enforcement or listed building consent appeal.

