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PROJECTS

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LDC APPLICATION DATED: 27th March 2023

LDC APPLICATION STATEMENT SITE AT: 21 HIGHGATE HIGH STREET LONDON, N6 5JT USE AS DENTAL PRACTICE

1. INTRODUCTION

We act for Mr Hugo Hagen of 23 Cromwell Avenue, London N6, who is the owner of the above site. This Statement supports the Lawful Development Certificate (LDC) application concerning the historic change of use of the building from a mixed dental and flatted use to full dental practice, at 21 Highgate High Street, London N6 5JT (hereon called 'the Property').

The Lawful Development Certificate application is made under section 191 of the Town & Country Planning Act 1990 (as amended), and is for **the lawful use of the all floors of the building as a dental practice (Use Class E)**, as shown in the accompanying drawings and evidence. It is contended that the dentistry has been in place for over ten years and therefore that it is acceptable to grant the LDC, having regard to sections 171(B) and 191 of the T&CP Act 1990.

2. THE LIST OF SUBMITTED DOCUMENTS

The following evidence is submitted by the Applicant:

This supporting Statement, dated 14 March 2023

Site Plan

Drawings showing the pre-existing 1960's, pre-existing 1997 and existing floor layouts

STATUTORY DECLARATIONS:

Three Stat Decs signed by Hugo Hagen, Egle Vilimiene and Vanessa Lee.

DOCUMENTS:

-  DOC1 - Building Works Updated
-  DOC2 - Dr Hagen-Worktop (1)
-  DOC3 - Dr Hugo Hagen decon room services 9th April 2012 (1)
-  DOC4 - Dr Hugo Hagen Final layout 9th April 2012
-  DOC5 - Dr Hugo Hagen layout 1
-  DOC6 - Dr Hugo Hagen order confirmation 15th March 2012
-  DOC7 - Dr Hugo Hagen quotation 9th April 2010 (2)
-  DOC8 - Dr Hugo Hagen quotation 11th December 2011
-  DOC9 - Dr Hugo Hagen quotation 18th January 2012 (1)
-  DOC10 - Dr Hugo Hagen quotation 14th September 2010 (1)
-  DOC11 - Dr Hugo Hagen quotation 18th January 2012
-  DOC12 - Dr Hugo Hagen surgery services 9th April 2012 (1)
-  DOC13 - Dr Hugo Hagen-surg layout no 1
-  DOC14 - Estimate for refurbishment
-  DOC15 - Final Estimate for equipment
-  DOC16 - Guest Cloakroom Builders Quote
-  DOC17 - Highgate Dental - Quotation
-  DOC18 - Highgate Dental Practice Scope Of Works
-  DOC19 - Invoice - 000002 -Dr Hagen, Highgate
-  DOC20 - New OPG HenrySchein finance
-  DOC21 - confirmation of finance
-  DOC22 - Payment for upgrade - March 2012
-  DOC23 - Quote for Upgrade of upstairs rooms -FEB2012

3. PLANNING HISTORY

The Site does not have a planning history listed on the Council's website.

4. THE PROPERTY

The Property subject of this Lawful Development Certificate application is a terraced building in Highgate Hight Street, in use as a single planning unit, with an existing floor layout as follows:

- **Basement with 2 dental surgeries, landing and storage rooms**
- **Ground floor receptionist office, back office and waiting room**
- **First Floor - 2 dental surgeries and landing**
- **Second floor staff bathroom, staff kitchen, landing, oral hygiene room, cleaning area and OPG x-ray unit.**
- **Top Floor - two small rooms for storage and also staff changing area**

Access is gained from steps up to the main doorway at ground floor level. The ground floor is raised above the basement, and there is a first, second and third floor, as shown on the application drawings.

The location plan of the Property is as follows:



5. THE USAGE HISTORY

1960's

The 'pre-existing 1960' drawings show the building as it was laid out as a MIXED USE. This comprised a dental practice on the basement, ground and part first floors and a flatted dwelling on the part first, second and third floors. This use was originally established around 1914 and it seems as if the property was in this mixed use for a long time. There was only a single access to the property and, as such, the flat was not self-contained. In our view, it was a mixed use.

1970's-1997

Less is known about this period, but it does seem as if the flatted use persisted on the upper floors, until it was used more and more as dental storage.

1997-2012 – A CREEPING INTENSIFICATION

In 1997, both the second and third floors were filled with storage of old furniture and aged dental items, as is shown on the pre-existing 1997 drawings. This is very clearly detailed in Mr. Hagen's detailed description of the state of the building in 1997. This includes:

Each dental surgery over time was completely stripped back and replaced with modern dental units and equipment. Each time it was a major project as the plumbing and drainage had become blocked with amalgam dental filling waste over the years. Amalgam filters were not available in the early years and as result when we refurbished the rooms, it entailed lifting the floors and redoing the drainage and plumbing to unblock the drainage. Each time it involved plumbers, builders, carpenters and electricians. We now have fitted amalgam filters to protect the drainage system and secure it for the future

Apart from major refurbishment and updating of the lower floors I also updated the top two floors. As mentioned the first floor of the flat the main room had a partition with shelves for storage and as I mentioned the old OPG x-ray unit. Patients were taken here for

panoramic x-rays. We continued to use this area for dental stock storage and we also used it as a dental management office.

The majority of the property has been in dental use since 1997 and since then there was a creeping intensification. I can confirm that earlier till the mid 1960's the building was in a state of mixed use, with a dental practice mainly on the lower floors and accommodation on the top floors. There was always some overlap till the top floors were abandoned for residential use when the previous owner moved to a house with his family. The top floors were then slowly moved over in stages to dental use, with the intensification being completed by 2012. From this date onwards there was a full and continuous dental practice use of the majority of the building exclusively for staff and dental patients, which was further strengthened as more medical equipment was moved in. The refurbishment in 2012 modernised it into its current dental medical state with clinical use, dental storage and dental staff usage, it had already been used as part of the practice before.

A major refurbishment of the upper floors ensued in 2012, which is also described in Mr Hagen's statement. This refurbishment made the floor layout into the dental practice it is today, as shown on the existing drawings.

THE EXISTING SITUATION

All floors have since 2012 to the current date been used as a fully operating dental practice. This is a period of over 10 years. This is confirmed in the three statements and the list of evidence (see below on this).

6. THE EVIDENCE & THE USAGE TIMELINE

The submitted Statutory Declaration by Mr. Hugo Hagen tells the story of the use of the Property in a lot of detail and the case officer is requested to study this closely. Mr. Hagen confirms that he has known the building since 1997 and knows much about the earlier history. This is all confirmed as a sworn statement.

The list of submitted documents is referred to in the statement, since not all the documents contain a floor reference. For ease of reading we extract this as follows:

The documents listed below are those submitted as a Lawful Development application, in parallel with this Sworn Statement. They are mainly related to the second floor upgrade. Where the room at the front was used for the purpose of dental OPG x-rays as well as making porcelain Cerec crowns for patients, using a Cerec 3D milling unit.

Some Documents demonstrate that we have also done upgrades in other parts of the building as required by the CQC. These documents refer to the first floor. The aim of the documents list is to ascertain which floors they refer to, which are as follows:

DOC1 – I confirm that this is an estimate for the upgrade of the second floor front room. This room was previously used for OPG Xrays (X-ray unit was in the one corner) and a Cerec dental unit was positioned in this room. This room was used for the storage of dental stock and in this area there were very old (antique) dental wall units. Not sure if these were there before or moved from elsewhere in the building. There was an old dental drill and other equipment in this room

DOC2- I confirm that this is a floorplan for new worktops in a first floor surgery front room facing the road. This is to upgrade and modernise an existing dental surgery

DOC3 (April 2012) – I confirm that this is the floor plan for the new decontamination area on the second floor front room. This room was upgraded to comply with CQC HTM0105 requirements. This room was previously used for OPG Xrays and also Cerec dental procedure. The Cerec unit was positioned by the window in this area.

DOC4 (April 2012) - I confirm that this is the floor plan for the final surgery layout on the second floor front room

DOC5 - I confirm that this is the surgery layout for new wall units for a first floor surgery. This was done to upgrade and modernise the existing dental surgery.

DOC6 (March 2012) – I confirm that this is the order confirmation for new wall units and dental equipment for the second floor surgery

DOC7 (April 2010) - I confirm that this the floor plan for the first floor surgery upgrade for the large surgery in the front of the building

DOC8 (Dec 2011) – I confirm that this is the quotation for the second floor cabinetry upgrade for the front room surgery. This was part of the upgrade for the second floor as described in DOC1

DOC9 (April 2012) – I confirm that this is the estimate for dental equipment for the second floor surgery. This would have included dental chairs, a suction pump and other equipment

DOC10 (2010) - I confirm that this the estimate for surgery units and services for the first floor surgery in the front

DOC11 (Jan 2012) - I confirm that this the quote for the second floor surgery dental equipment

DOC12 (April 2012) – I confirm that this is the layout for the second floor surgery services quote

DOC 13 – I confirm that this is the layout for the upgrade for the 1st floor surgery for new cabinetry for the front surgery

DOC14- I confirm that this is the estimate for the second floor refurbishment

DOC15- I confirm that this the estimate for the final equipment estimate for the second floor surgery

DOC16 – I confirm that this the builders estimate for the small guest cloakroom on the ground floor. This job included a complete rebuild of the old WC and required complete stripping back of the old walls and removal of old services.

DOC17 – I confirm this is the quotation for the upgrade of the second floor

DOC18- I confirm that this is to demonstrate that even a small project like a new patient toilet requires a team of plumbers builders and electrician and this document shows the scope needed

DOC19 – I confirm that this is an estimate for the second floor upgrade. In this document the contractor refers to the upgrade of the existing stud wall which I have referred to. They added lead panelling to the stud wall

DOC20 I confirm that this is the finance agreement for the new replacement OPG x-ray unit for the second floor. The new OPG unit replaced the old unit which I mentioned previously

DOC 21 – I confirm that this the confirmation of finance for the second floor upgrade

DOC22 (March 2012) – I confirm that this is the payment confirmation for the second floor upgrade

DOC 23 (Feb 2012) - I confirm that this is the quote for the upgrade for the second floor refurbishment

The plans, quotes and contractors information all refer to the upper floors and to the use of the whole premises as a dental practice. The documentary evidence, supported by the stat decs, clearly prove a ten year plus use of the premises as a dental surgery.

This is further supported by the Stat Decs of Egle Vilimiene and Vanessa Lee, with the former being a dental nurse at the Property from 2015 on, and the latter, also an employee, from 2010 onwards. Both persons confirm the use of the Property solely for dental practice use, which included this use in the upper floors.

7. THE LAWFUL TIME LIMITS

Section 171B of the Town and Country Planning Act 1990 (as amended) provides time limits for different types of development, outside which both operations and uses are immune from enforcement action. This includes a ten year period for material changes of use outside the residential use class, which would include the dental surgery at the Property.

Section 55 of the Town and Country Planning Act 1990 (as amended) splits the definition of development into two: (a) building operations and (b) changes of use. This LDC application concerns the change of use element of section 55.

In the current case, the ten year period has been exceeded for the dental practice use and it should therefore be considered as lawful under the principal Planning Act. The evidence to support this is set out above.

8. THE BALANCE OF PROBABILITY TEST

The submitted evidence and the Statutory Declarations together provide a very strong timeline for the use of the Property as a dental practice, this having a continuous and uninterrupted use for over 10 years.

There is no evidence that materially weighs against the lawful presence of the dental surgery.

The evidence presented in this LDC application must be regarded with the **'balance of probabilities test'**, as defined in planning law and guidance. This is not as strong as the **'beyond all reasonable doubts test'** as used in criminal law. It means that there may be arguments for and against a proposal and if the 'for' argument are stronger than the 'against', then an LDC should be consented. Thus, it is possible to have an LDC granted with some 'against' evidence, but as long as the 'for' case is greater and stronger.

Indeed, Planning Practice is clear that:

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

9. CONCLUSION

We have brought together in this LDC application strong evidence to prove that the 100% dental surgery has been in place for over 10 years before the date of the current LDC application. There is no contrary evidence and the balance of probability therefore, clearly weighs in favour of granting the LDC application and confirming a lawful dental surgery use.

PETER D KYTE MRTPI

ENABLING PROJECTS (TOWN PLANNERS)

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