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LONDON BOROUGH OF CAMDEN
Development Management
Regeneration and Planning
Town Hall, Judd Street,
London
WC1H 9JE

Our Ref: 1242
7th June 2023

RE: LAWFUL DEVELOPMENT CERTIFICATE (EXISTING) TO CONFIRM PLANNING PERMISSION 2020/1530/P HAS LAWFULLY COMMENCED | 10 CANFIELD GARDENS, LONDON NW6 3JS | PP-12218872

Dear Sir/Madam,

This covering letter has been prepared by NTA Planning LLP on behalf of Akelius Residential. This letter is submitted in connection with an application for a Lawful Development Certificate (existing) to confirm that planning permission 2020/1530/P has lawfully commenced within the permitted three-year period (Section 191 of the Town and Country Planning Act 1990). Specifically, we are seeking confirmation from Camden Council in respect of the following development:

The digging of an external trench which is to contain part of the foundations of a building (as shown on Basement Floor Plan, shown on plan number: P1.01 Rev I and P2.01.02 Rev H, in accordance with section 56(4) of the Town and Country Planning Act 1990, constituting a material operation for commencement of planning permission 2020/1530/P dated 17th July 2023 in accordance with condition 3.

BACKGROUND TO PLANNING PERMISSION

On 17th July 2020, Camden Council granted full planning permission for the following development:

Erection of front and rear lower ground floor extensions; removal of existing ground floor rear extension and erection of replacement rear extension; replacement of all existing windows with timber framed double glazed units (Use Class C3).

This decision notice was approved subject to 4no. planning conditions:

NO	CONDITION WORDING	AGENT COMMENT
1	The development hereby permitted must be begun not later than the end of three years from the date of this permission.	This is a compliance planning condition.
2	All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.	This is a compliance planning condition.
3	The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (unnumbered), CAD/CG/AK/17, CAD/CG/AK/18, CAD/CG/AK/19, CAD/CG/AK/20, P1.01_Rev.I, P1.02_Rev.F, P1.03_Rev.B, P1.04_Rev.E, P2.01.01_Rev.G, P2.01.02_Rev.H, P2.02.01_Rev.H, P2.02.02_Rev.H, P2.02.03_Rev.C, P2.03_Rev.H, P2.04_Rev.G, P3.01, P3.02, P3.01_Rev.C & P3.02_Rev.B.	This is a compliance condition.
4	Notwithstanding the details shown on the plans hereby approved, prior to the commencement of the relevant part of the development, manufacturer's specification details of all facing materials shall be submitted to the Local Planning Authority for approval and samples of those materials shall be provided on site. The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.	This condition requires further detailed of all facing materials to be submitted to the LPA for approval, prior to <u>commencement of works on that relevant part of the development.</u>

Planning condition no's 1-3 are compliance conditions which do not require further submission to the Local Planning Authority.

Condition 4 required further details of external facing materials to be submitted to the Local Planning Authority prior to the commencement of works on the relevant part of the development, however this condition did not need to be discharged prior to the commencement of the entire development. Nevertheless, this condition was submitted to and approved by the Local Planning Authority in July 2021 (ref: 2021/0588/P).

Accordingly, there are no planning conditions which would restrict the applicant from lawfully commencing the development.

As the development comprises less than 100sqm of development and does not create any new dwellings, CIL is not liable for this development.

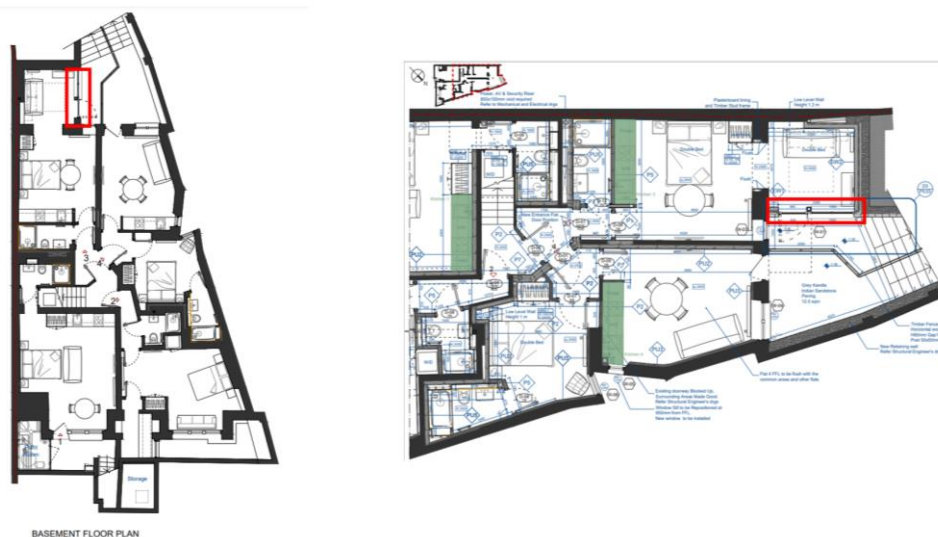
EVIDENCE OF WORKS CARRIED OUT

The approved development (2020/1530/P) permitted the extensions to an existing HMO development on Canfield Road (front and rear), along with replacement of windows to all units. The applicant has commenced works by forming a trench which will support part of the foundation of the lower ground floor rear extension.

Evidence of this element of works is as follows:

- 17.7.20 - This Decision Notice is submitted with this application (**Evidence 1**).
- 24.5.23 – A site visit was undertaken by the applicant and their appointed Building Control consultant (Salus) where the development of the project was considered. See Site Logbook (**Evidence 2**) submitted with this application.

It was agreed following this meeting that a trench to support a foundation for the approved basement rear extension would lawfully implement the extant planning permission. The location of works are indicated below on drawings and P1.01 Rev I and P2.01.02 Rev H, both listed in condition 3 of planning permission 2020/1530/P. These two drawings are submitted as **Evidence 3** with the area of works highlighted in red.



LOCATION OF FOUNDATION TRENCH (RED) ON APPROVED PLANNING DRAWINGS

- 1.6.23 – A quotation was sent by Alco Contracts to the applicant for the following development: *“Undertake excavation to the rear of the property to form trench for a concrete foundation.”* See fee quote (**Evidence 4**) submitted with this application.
- 2.6.23 - This fee was confirmed by the applicant on 2.6.23 with a Purchase Order raised on 6.6.23 (**Evidence 5**)

- 6.6.23 - Works commenced and completed on this date. A trench of 500mm width and 500mm depth was created to allow for this strip of foundation to be formed. Time stamped photos are submitted with this application (**Evidence 6**).

CONFIRMATION OF COMMENCEMENT OF DEVELOPMENT

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the “balance of probability”, and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The package of evidence provided with this application include instructions to contractors and photo evidence of approved ground works being carried out within the permitted three-year time frame.

As demonstrated within Evidence 3, the ground works carried out comply with the drawings approved in Condition 3 of the planning permission 2020/1530/P.

Section 56 of the Town and Country Planning Act 1990 clearly sets out the thresholds for “commencing the development”.

Subsection 56(1) states that “...development of land shall be taken to be initiated (i) if the development consists of the carrying out of operations, at the time when those operations are begun.

Subsection 56(2) states that “For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any **material operation** comprised in the development begins to be carried out.”

Subsection 56(4) clarifies the definition of “material operation”. Subsection 56(4)(b) states that the following constitutes a material operation: “**(b)the digging of a trench which is to contain the foundations, or part of the foundations, of a building**”

Regarding the development at Canfield Gardens, the works carried out have been in accordance with the approved planning drawings listed in condition 3 of planning permission 2020/1530/P, within the three-year permitted timescale given in Condition 1.

The works carried out, comprising the digging of a trench which is to contain part of the foundations of a building, constitute a material operation.

In summary:

- On 17th July 2020, planning permission was granted via planning ref 2020/1530/P for extensions and alterations to an existing HMO development at Canfield Gardens.
- The approved development was subject to 4no. planning conditions. None of these conditions required further submission prior to commencement of the approved development, however Condition 4 was discharged in July 2021 (ref 2021/0588/P). Due to the modest scale of development, it is not liable to pay CIL.
- The applicant appointed a contractor to commence works on the foundations of the approved rear extension at lower ground floor level in early June 2023.
- These works were commenced and completed on 6th June 2023. Quotes and time-stamped photographic evidence shows when this work was carried out.
- In accordance with Section 56(4) of the Town and Country Planning Act, these works constitute a material operation for the purposes of commencing the development, allowing a Lawful Development Certificate to be issued.

The application will be made via the Planning Portal and the £234.00 (+£64 service charge) fee will be paid via BACS to the Portal directly.

We trust that we have provided you with sufficient information to validate and register this planning application. Please do not hesitate to contact me (bk@ntaplanning.co.uk or 07596896216) should you have any queries.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brian Kavanagh', written in a cursive style.

BRIAN KAVANAGH BSc. (HONS) MPLAN MRTPI
PARTNER
NTA PLANNING LLP