

LDC (Proposed) Report		Application number	2023/2438/P
Officer		Expiry date	
Kristina Smith		08/08/2023	
Application Address		Authorised Officer Signature	
Basement, Plots B, C and D, Highgate Studios Highgate Road London NW5 1TL			
Conservation Area		Article 4	
No		Basements E to C3 outside CAZ KX	
Proposal			
Use of basement of Plots B, C and D as office floorspace (Use Class E)			
Recommendation:	Grant Lawful Development Certificate		

Assessment
<p>1. Introduction</p> <p>1.1. The application seeks confirmation that the use of the existing basement underneath Plots B, C and D as office floorspace does not constitute development and is lawful such that planning permission would not be required. The basement is currently used as a car park for employees and visitors as well as storage and plant accommodation.</p> <p>1.2. Section 192 of the Town and Country Planning Act 1990 (“the 1990 Act”) provides for an application to determine whether any proposed use would be lawful for planning purposes. This application is for a determination of fact, and not one of planning merits.</p> <p>2. Applicant’s evidence</p> <p>2.1. The applicant provided the following documents/drawings in support of the proposal:</p> <ul style="list-style-type: none"> • Site location plan • Lower ground floor plan • Signed declarations from Adnan Mehboob (Property’s Security Officer for 6 years) and Martin Joyce (Property’s Building Manager for 10 years) declaring that throughout their employment the basement has been used solely in conjunction with and ancillary to the use of the Property as offices and for no other purpose. <p>2.2. The applicant refers to a live planning application (ref. 2023/1804/P) for the following development: <i>‘Erection of a 7 and 4 storey building at Plots A and F (respectively) following demolition of existing buildings and structures; erection of roof extensions at Plots B, E, I and J; external refurbishment of the existing buildings at Plots C and D; erection of replacement entrance pavilion; plus cycle parking and plant provision; hard and soft landscaping to provide an additional c. 16,000sqm (GIA) of Class E (g) floorspace and ancillary uses’</i></p> <p>2.3. It is acknowledged through the assessment of this application that the site is used as offices together</p>

with some ancillary and supporting uses.

3. Assessment

3.1. Section 55 of the Town and Country Planning Act 1990 ('TCPA') (as amended) states that planning permission is only required if the work being carried out meets the statutory definition of 'development' (see below):

"The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in use of any building or other land"

3.2. The categories of work outlined in Section 55 of the TCPA 1990 (as amended) that do not amount to development include, but are not limited to the following:

- Interior alterations (except mezzanine floors which increase the floorspace of retail premises by more than 200 square meters);
- Building operations which do not materially affect the external appearance of a building.
- The term 'materially affect' has no statutory definition but is linked to the significance of the change which is made to a building's external appearance;
- A change in the primary use of land or buildings, where the before and after use falls within the same use class.

3.3. The Council are satisfied, based on knowledge of the site through the live planning application, that its long-term and established use is as offices. There is no planning history to contradict this understanding. It is clear from the layout of the site that the basement is associated with the office use of the upper floors and provides car parking for employees and visitors, storage and plant accommodation. Access to the site is via to manned security booths that ensures use is restricted to office users only. The declarations from employees and a site visit demonstrates that this is the case.

3.4. Taking the above into account, the use of the basement as offices (Use Class E) does not constitute development requiring planning permission because there will be no material change of use of the basement. The basement has been used solely and continuously for a period of at least 10 years in conjunction with, and ancillary to, the use of the wider Plots B, C & D as Use Class E (offices).

4. Conclusion

4.1. The proposal would, therefore, not result in a material change of use, nor fall within the 'meaning of development' which would require planning permission, as defined by section 55 of the Act.

4.2. The proposal is therefore lawful and it is recommended that a certificate of lawfulness be granted.

5. Recommendation

6.1. Grant Lawful Development Certificate