

## **Statement accompanying an Application for a Certificate of Lawful Development (Existing) at Flat 1, 41 Howitt Road, London NW3 4LU**

**Camden reference no. 2023/3104/P**

### **Introduction:**

This submission was originally submitted to LB Camden as an application for a Certificate of Lawful Development (Proposed) on 31 July 2023. On 14 September 2023, an email was received from Tony Young at Camden stating that the application should be for existing works, a new application form should be submitted, an additional fee paid and formally-undischarged Conditions (specifically numbers 4 and 6) be addressed. This statement is to accompany the new application form and much of the information below comes from the application form for the proposed works, as suggested by Mr. Young.

The new application has been given the reference number 2023/3104/P and we assume that all of the submissions included with the original application (listed below) can be transferred internally by Camden. Let us know if this is not the case.

### **Commencement date of the project:**

The project that is the subject of this application was granted planning approval by LB Camden (ref. 2014/5939/P) on 18 September 2017 and, under normal circumstances, would have expired on 18 September 2020. Because of the disruption and delays caused by Covid lockdowns, however, "Under section 93A of the Town and Country Planning Act 1990, unimplemented planning permissions with time limits for implementation which were due to lapse between 19 August 2020 (when the provisions came into force) and 31 December 2020 (were) extended to 1 May 2021."

A Building Notice for this project was submitted to London Building Control (ref. 21/70566/MYFFBFXFA/JH) on 27 April 2021 and work to clear vegetation and uncover the foundation of the front retaining wall began on 29 April 2021. London Building Control have confirmed, to the Applicant, that they informed LB Camden of their receipt of the Building Notice at the time.

By agreement with the other owners and occupants of 41 Howitt Road, who remained concerned about Covid, the initial phase of works was to be limited to underpinning of the front retaining wall so that workmen would not need to enter the building (note that Tier 4 Covid restrictions were not lifted by central government until after 19 July 2021). Photographs of the work completed during this initial phase were attached to the original submission + we maintain that this constitutes the commencement of the approved work in planning terms (+ see below).

The company now providing funding for the project want confirmation that LB Camden consider this project to be "live" in planning terms, especially as work did not start before the original expiry date of 18 September 2020. The Applicant wrote

to LB Camden to ask for such confirmation and was told that an application for a Certificate of Lawful Development was required, hence the original (proposed) submission and this existing revision.

**Information as previously submitted:**

The following documents were submitted to LB Camden with the original application for a Certificate of Lawful Development (Proposed) and, we assume, are also available for this application.

Location and Block Plan.

Existing plans from original application 2014/5939/P, combined as single pdf.

Proposed/approved plans from original application, combined as single pdf.

Delegated Report

Planning Approval notice dated 18 Sept. 2017.

Confirmation of continuity of engineers (Condition 4)

Confirmation of Movement Monitoring (Condition 5)

Photographs of underpin works conducted April-Sept. 2021.

Photographs of flat interior as stripped out.

Further documents as approved (eg Basement Impact Assessment, Construction Method Statement etc) can be submitted if required, but we believe that the question being asked here does not require them. Please let us know if they should be submitted.

**Additional Information submitted:**

The following additional documents are now provided:

Revised application form.

This Statement.

Arboricultural Statement and Method Statement as submitted in 2014.

Additional Arboricultural Method Statement.

**Discharge of Conditions:**

The writer of this statement (Evan Ferguson) was not involved at the time work started on site on 29.4.2021 but asserts that it was reasonable for the Applicant and his team to believe that all Conditions had been complied with, as follows:

Condition 1. Work on site was begun prior to 1 May 2021 (the expiry date extended due to Covid disruption).

Condition 2. All materials are as required.

Condition 3. Work completed to date is in accordance with the approved drawings (now amended by approval 2022/5453/P for minor changes to the rear.)

Condition 4. The same structural engineers involved in the extended planning process (David Dexter Associates), whose work was accepted and approved by LB Camden have continued as structural engineers for the entire project and are now dealing with Building Control and work on site. Now rebranded as DDA Engineers, the same personnel are still involved, with Jo Smith confirming her continued involvement in a document as originally provided.

LB Camden has/had all necessary information on – and has continued to work with – the same engineer, though we apologise that Condition 4 was not formally discharged through a separate application. We trust that Jo Smith's confirmation is sufficient to discharge that condition.

Condition 5. In cooperation with London Building Control, works are proceeding in accordance with the requirements of the approved BIA and its attendant suite of documents, with confirmation of the monitoring process given in the attached document from Laser Surveys (ref. L3287/21). Note that this document is dated 19 July 2021, which is the date of lifting of Tier 4 restrictions, as the other occupants of 41 Howitt Road would not allow access to the property prior to the removal of all Covid restrictions.

Condition 6. Item 6.2 of the Delegated Report states that: "The Council's Tree Officer has reviewed the Arboricultural Statement submitted by the applicant and notes that no trees are proposed to be removed in order to facilitate development. The arboricultural report is considered sufficient to demonstrate that the scheme could be implemented without adversely affecting the trees to be retained both on site and on neighbouring sites."

This condition (no. 6) became invalid in relation to the limited front works begun on 29 April 2021, as the adjoining street tree turned out to be diseased and was removed by LB Camden workmen before work commenced. Root protection for the trees to the rear (there are none on the site itself) is as stated in the approved Arboricultural statement and as further agreed on site with London Building Control.

A copy of the 2014 Arboricultural Report by Landmark Trees is now attached and includes a Method Statement. As this had been accepted and approved by LB Camden, it was, again, reasonable for those involved to assume that this condition had been dealt with and we apologise that a formal discharge was not sought.

For the avoidance of doubt, an addendum to the Arboricultural Report is now attached in the form of a separate Method Statement, which includes a plan of the proposed temporary fencing in the rear garden.

**Conclusion:**

The Applicant and his design team are firmly of the opinion that this project is "live" and works were proceeding on this basis.

Works have now halted because of the request for confirmation of the lawfulness of this development by the funding company.

The Applicant asks that a Certificate of Lawful Development be issued promptly to enable work to proceed without delay.