

LDC Report	01/06/2023
Officer	Application Number
Kate Henry	2023/1470/P
Application Address	Recommendation
Lincoln House 296-302 High Holborn London WC1V 7JH	
1st Signature	2nd Signature (if refusal)
Proposal	
Commencement of development in accordance with condition 1 (within 3 years of date of permission) of planning permission reference 2018/3105/P, dated 12/03/2020 (for: Partial demolition and erection of extensions and rooftop plant; change of use of ground floor to provide 2 x retail units and the remainder in office use; associated external alterations to elevations; provision of cycle parking, waste/recycling storage and other services)	
Assessment	
<p>Application site:</p> <p>The application site is Lincoln House at 296-302 High Holborn, a 9 storey office building with retail units at ground level within the Bloomsbury Conservation Area.</p> <p>Relevant planning history:</p> <p>2018/3105/P: Partial demolition and erection of extensions at rear, flank and roof level and rooftop plant. Change of use of ground floor Use Classes from A1, A2 and B1a uses to provide 2 x A1 units and the remainder in B1a Use. Associated external alterations to the elevations. Provision of appropriate cycle parking, waste/recycling storage and other services. Granted subject to section 106 legal agreement 12/03/2020.</p> <p>2022/0562/P: Non-material amendment to condition 12 of ref: 2018/3105/P, 12/03/2020, to require provision of living wall details prior to relevant part of the works; rather than prior to commencement of development. Withdrawn.</p> <p>2022/5170/P: Details of facing materials (shopfront only) required by condition 3 (b) of planning permission 2018/3105/P, dated 12/03/2020 (for: Partial demolition and extensions at rear and new plant; change of use of ground floor to provide 2 x A1 units and the remainder in B1a Use; associated works). Granted 09/12/2022.</p> <p>2022/5407/P: Details of air quality monitors required by condition 7 of planning permission 2018/3105/P, dated 12/03/2020 (for: Partial demolition and extensions at rear and new plant; change of use of ground floor to provide 2 x A1 units and the remainder in B1a use; associated works). Granted 23/01/2023.</p>	

2022/3450/P: Tree protection details required by condition 9 of planning permission 2018/3105/P, dated 12/03/2020 (for: Partial demolition and extensions at rear and new plant; change of use of ground floor to provide 2 x A1 units and the remainder in B1a use; associated works). **Granted 03/02/2023.**

2022/5169/P: Details of mechanical ventilation required by condition 8 of planning permission 2018/3105/P, dated 12/03/2020 (for: Partial demolition and extensions at rear and new plant; change of use of ground floor to provide 2 x A1 units and the remainder in B1a use; associated works). **Granted 03/02/2023.**

2022/5406/P: Details of green wall required by condition 12 of planning permission 2018/3105/P, dated 12/03/2020 (for: Partial demolition and extensions at rear and new plant; change of use of ground floor to provide 2 x A1 units and the remainder in B1a use; associated works). **Granted 06/02/2023.**

Applicant's evidence:

The applicant has submitted the following information in support of the application:

- Application form
- Site location plan
- Covering letter, dated 31/03/2023 (Gerald Eve)
- 8x photographs, all dated 9 March 2023

Council's Evidence:

The relevant planning history for the site is outlined above. Conditions 3 (b) [details of facing materials (shopfront only)], 7 (air quality monitors), 8 (details of mechanical ventilation), 9 (tree protection details) and 12 (details of green wall) have all been discharged. There are no other pre-commencement conditions which need to be discharged.

Assessment:

This application seeks a Certificate of Lawfulness (Existing) to establish whether the commencement of planning permission reference 2018/3105/P, dated 12/03/2020, occurred lawfully (i.e. whether the permission has been lawfully implemented and therefore remains extant).

The applicant is required to demonstrate that, on the balance of probability, planning permission reference 2018/3105/P has been implemented in line with any pre-commencement conditions and prior to 3 years from the date of the permission (12/03/2023).

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.

All of the conditions which require details to be submitted and approved in writing by the Council prior to the commencement of works have been discharged. All relevant pre-commencement S106 obligations and payments have also been satisfied.

The photographic evidence provided by the applicant demonstrates that the shopfront replacement works have commenced: the former timber-framed shopfront, glazing, door, stone plinth, fascia and all interconnecting services have been removed.

The covering letter also notes that a Community Infrastructure Levy Commencement Notice was served on the Council prior to carrying out the implementation works on 06/03/2023, confirming that works were due to commence on 07/03/2023 and the CIL payment has also been made.

Section 56(2) of the Town and Country Planning Act 1990 states: “...*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*” and Section 56(4) defines a “*material operation*” as: “(aa) *any work of demolition of a building*”.

Insofar as the removal of the shopfront relates to the approved development, it is considered to constitute the commencement of development.

The Council does not have any evidence to contradict or undermine the applicant’s version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ planning permission reference 2018/3105/P (granted subject to section 106 legal agreement on 12/03/2020) has been lawfully implemented.

Conclusion:

It is considered that the evidence submitted is adequate to demonstrate that, on the balance of probability, the works completed on site did constitute development and were begun within three years of the date of the original permission.

It is therefore confirmed that the planning permission has been lawfully commenced and remains extant.

Recommendation: Approve.