

Delegated Report		Analysis sheet	Expiry Date:	05/12/2023
		N/A	Consultation Expiry Date:	N/A
Officer			Application Number(s)	
Sophie Bowden			2023/4327/P	
Application Address			Drawing Numbers	
Development Site At Former University Of Westminster Central St Martins College Campus Southampton Row London WC1B 4AF			Refer to Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Confirmation that planning permission 2020/2470/P has lawfully commenced within the permitted three-year period.				
Recommendation(s):	Grant Certificate of Lawfulness (Existing)			
Application Type:	Certificate of Lawfulness (Existing)			
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				

Site Description

The application site is located at the former Central St Martins College (University of the Arts) and which is a key site in the Holborn area and is allocated in the Council's emerging Site Allocations Document for mixed-use development including hotel, cultural, office and retail uses, as well as residential. It lies within the Holborn Growth Area.

The western part of the site is located within the Kingsway Conservation Area and the eastern part of the site sits opposite the Bloomsbury Conservation Area. The listed Kingsway Tram Tunnel is also located to the west. The property is an island site surrounded by Southampton Row to the west, Procter Street/Drake Street/Red Lion Square to the east, Theobald's Road to the north and Fisher Street to the south.

Relevant History

APPLICATION SITE:

Application	Description	Status
2020/0600/P	Request for screening opinion under Regulation 15 of the Town and Country Planning Environmental Impact Assessment (EIA) Regulations 2017, for proposed development involving the partial demolition of the non-designated existing buildings and structures on the site and the retention, refurbishment and partial extension to the listed Lethaby Building. The proposals include circa 431 hotel rooms (C1), exhibition space, a cultural use, gym, other ancillary hotel uses and 33 affordable housing units. The resulting buildings within the development include the ground level plus 5 storey Lethaby Building, a new ground level plus 8 storey block and the refurbished and extended Red Lion Building which would range between ground level plus 7 storeys up to ground level plus 14 storeys. The siting and layout of buildings within the site would define a new pedestrian street and public courtyard space.	Granted 06-02-2020
2020/2470/P	Redevelopment of the site including refurbishment of the Lethaby Building, partial demolition, external alterations, basement excavations and extensions to the existing buildings to form a hotel (Use Class C1), with flexible ground floor and basement uses including retail/restaurant/drinking establishment (Use Class A1/A3/A4), office (Use Class B1), exhibition and lecture halls (Use Class D1/D2/C1). Bar/restaurant spaces (Use Class A3/A4) at first, and upper floor levels with associated roof terrace. Erection of standalone block comprising a cultural use (Use Class D1) at ground and first floor level with affordable residential housing (Use Class C3) above with provision of balconies, terraces and a roof terrace. Re-instatement of former Orange Street, together with highway improvements, public realm, landscaping, cycling parking, waste storage and other associated works.	Granted Subject to a Section 106 Legal Agreement 30-10-2020
2020/2481/L	External refurbishment and restoration including window repair/replacement and installation of secondary glazing, façade stone repairs, repair and reinstatement of roof form, new lift overruns and installation of 2no. skylights. Internal refurbishment and repair of stair cores, demolition of existing lift shaft, refurbishment and amendments to doors and openings, installation of new mechanical ventilation and service routes, installation of new riser access, removal of modern partitions and installation of new partitions, refurbishment and waterproofing of vaults and other associated works. Works in association with conversion of the Lethaby Building into a hotel (Use Class C1), with flexible ground floor and basement uses (retail/restaurant/drinking establishment (Use Class A1/A3/A4), office (Use Class B1), exhibition and lecture halls (Use Class D1/D2), along with works to the wider site including erection of standalone block comprising a cultural use (Use Class D1) at ground and first floor level with affordable residential housing (Use Class C3) above with provision of balconies, terraces and a roof terrace. Re-instatement of former Orange Street, together with highway improvements, public realm, landscaping, cycling parking, bin storage and other associated works. Works in association with conversion of the Lethaby Building into a hotel (Use Class C1), with flexible ground floor and basement uses (retail/restaurant/drinking establishment (Use Class A1/A3/A4), office (Use Class B1), exhibition and lecture halls (Use Class D1/D2), along with works to the wider site including erection of standalone block comprising a cultural use (Use Class D1) at ground and first floor level with affordable residential housing (Use Class C3) above with provision of balconies, terraces and a roof terrace. Re-instatement of former Orange Street, together with highway improvements, public realm, landscaping, cycling parking, bin storage and other associated works.	Granted Subject to a Section 106 Legal Agreement 30-10-2020
2021/2025/P	Partial discharge of condition 36 (details of dust and air quality monitoring) of planning permission 2020/2470/P granted on 30/10/2020	Granted 03-06-2021

2021/2590/L	Details of programme of historic building recording and analysis as required by Condition 8 of listed building consent ref 2020/2481/L granted on 30/10/2020	Granted 2021	22-06-2021
2021/3558/P	Non-material amendment to planning permission 2020/2470/P dated 30/10/2020 NAMELY: changes to the wording of condition 17 to allow 2 phrase approval process to enable demolition works to take place on site	Granted 2021	27-08-2021
2021/3965/P	Details of written scheme of investigation as required by Condition 11 of planning permission 2020/2470/P granted on 30/10/2020	Granted 2021	27-08-2021
2021/5847/P	Details of Dust Monitoring Report as required by Condition 36 of planning permission 2020/2470/P granted on 30/10/2020	Granted 2022	13-01-2022
2021/5848/P	Partial discharge of condition 17 (ground floor structures, foundations and basement method statement to safeguard Crossrail infrastructure) and 18 (method statement to ensure Crossrail construction is not impeded) of planning permission 2020/2470/P	Granted 2022	13-01-2022
2022/0909/P	Discharge part 2 of condition 11 of planning permission 2020/2470/P dated 30/10/2020	Under Assessment.	

Assessment

Background

The certificate seeks to demonstrate that on the balance of probability that planning permission ref: 2020/2470/P commenced within the 3-year time period pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended), which would expire on the 30th of October 2023, and such development can continue as approved under this permission.

Applicant's Evidence

1. Completed Application form and certificates
2. Site Location Plan
3. Decision notice for planning permission reference 2020/2470/P
4. Statutory Declaration prepared by JRL Demolition
5. Initial photographs
6. Completion photographs

Council's evidence

It is noted that all pre-commencement conditions were discharged under refs 2022/0212/P, 2022/0263/P, 2022/0210/P, 2020/4197/P, and 2022/0211/P. The Council is satisfied that there are no further conditions which are required to be discharged prior to the commencement of the works.

A Section 106 legal agreement was secured which included the following pre-commencement planning obligations: Basement Approval in Principle, Carbon Offset Contribution, Demolition Management Plan, Construction Management Plan, Construction Management Plan Bond, Detailed Basement Construction Plan, Employment and Training Contribution, Employment and Training Plan, Energy Efficiency and Renewable Energy Plan, Highways Contribution, Local Procurement, Pedestrian Cycling and Environmental Contribution, and Sustainability Plan. The planning obligations, which are required to be satisfied prior to demolition, have been satisfied prior to the works commencing. It is noted, the remaining Section 106 obligations are currently ongoing and are required before occupation.

It is accepted that at this point the applicant had no outstanding prior to demolition requirements and would have been able to lawfully implement their permission.

Therefore, judging the evidence submitted and the history of the site, officers are satisfied that planning permission ref: 2020/2470/P commenced within the 3-year time period pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

Assessment

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 (Planning Practise Guidance para. 006), 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 applicant's evidence suggests that the works being carried out commenced on the 4th of August 2023 and are in accordance with the approved plans pursuant to planning permission ref: 2020/2470/P.

The works undertaken comprised a 'material operation' for the purposes of Section 56(4) of the Town and Country Planning Act, specifically "(a) any work of construction in the course of the erection of a building and (aa) any work of demolition of a building" and such works were carried out before the expiry of the planning permission.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' that planning permission 2020/2470/P commenced within the 3-year time period pursuant to the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended) and condition 1 of the permission. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Conclusion

Recommendation: Grant Certificate.