

LDC (Proposed) Report		Application number	2023/3449/P
Officer		Expiry date	
Tony Young		17/10/2023	
Application address		Authorised officer signature	
Flats 1-22 1 Winchester Mews London NW3 3NH			
Conservation area		Article 4 Direction	
No		Basements	
Proposal			
Replacement of potentially combustible materials with alternative non-combustible materials.			
Recommendation		Grant Certificate of Lawfulness (Proposed)	
1.0 Introduction			
<p>1.1 The application site comprises of a number of residential self-contained units (Flats 1-22) accessed from Winchester Mews which forms part of a larger building also containing the Swiss Cottage Leisure Centre. The building and mews are bounded by major transport routes along Avenue Road, Adelaide Road and Winchester Road.</p> <p>1.2 The Swiss Cottage Leisure Centre is locally listed (ref. 340) by virtue of its architectural and townscape significance. The site is not located within a conservation area.</p> <p>1.3 The application seeks confirmation that proposed works intended to enable fire safety works to be carried out (proposed operations) as shown in the application submission would not constitute development in accordance with the relevant legislation and are lawful such that planning permission would not be required.</p>			
2.0 Applicant's Evidence			
<p>2.1 The applicant provided the following drawings/documents in support of the proposal:</p> <ul style="list-style-type: none"> Drawing numbers: (23120-SC-)001, 002, 010, 011, 012, 100 rev 02, 101 rev 02, 102 rev 03; and Cover letter from Savills (the agent) dated 02/11/2023. 			
3.0 Relevant history			
<p>3.1 The following planning history and local list entry are relevant to the proposal:</p> <ul style="list-style-type: none"> PEX0000548 & LEX0000549 - Demolition of the existing leisure centre and community centre. Erection of a new building complex incorporating a sports/leisure centre building over four floors plus basement, and incorporating 22 affordable residential units and a doctors' surgery. Erection of a glazed entrance pavilion providing access to the leisure centre and library. Erection of a building along the Winchester Road frontage of between six and sixteen floors with underground car parking and servicing, to contain new community centre accommodation together with 128 private flats and 19 affordable housing units. Creation of new pedestrian paths and landscaping on the Adelaide Road frontage. Planning and listed building consent granted subject to a Section 106 legal 			

agreement on 07/03/2001

- **Local List entry (ref. 340)** - *Swiss Cottage Leisure Centre, Adelaide Road. Architectural and Townscape Significance - metal and glass leisure centre dating to 2006 by Sir Terry Farrell. Light and spacious; views of the open space from almost every part of the centre; glazed north face brings the activity of the building into the park; to the south the colourful illuminated climbing wall offers “a striking night display” to Adelaide Road; dramatic glass atrium on western face and upper-level links to library: similar roof line to listed Basil Spence library and in a complementary design. Creates a distinctive landmark.*

4.0 Responses

- 4.1 Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved in their determination, the Council does not have a statutory duty to engage in a formal consultation process.
- 4.2 Notwithstanding this, it is Council practice to allow a short period of time for our local residents and amenity groups to comment should they choose to do so. As such, the details of the application were made available online. No responses were received during this period.
- 4.3 The determination of the application now moves to consideration of the proposal under the relevant legislation as set out below.

5.0 Proposal

- 5.1 Barratt Developments plc (the applicant), having reviewed the external cladding materials used in the construction of the building at the application site (1 Winchester Mews), identified areas which may require remediation to ensure compliance with the latest building fire safety regulations.
- 5.2 As a consequence, the following works are proposed:
- Remove all existing Timber balustrades fascias & replace with Non-Combustible Aluminium Balustrades system to European fire class A2-FL-S1 & A2L-S1-D0 Fire rating in accordance to EN13501-1 with colour to match existing;
 - Remove existing timber cladding on balcony dividing walls where indicated and replace with JamesHardie `Hardie VL Plank non-combustible weatherboard to European fire class A2-s1, d0 fire rating, with cedar finish colour to match existing;
 - Remove all existing ACM Panels and ACM capping on balcony dividing walls & replace with Non-Combustible Aluminium Alucobond panels to fire class Class A2-s1, d0. in accordance to EN 13501-1 to match existing colour; and
 - Remove all existing timber decking on balconies & replace with Ryno Terrasmart Class A2 Rating decking panel. Colour and finish to match existing.
- 5.3 The applicant has stated that the visual appearance of all proposed non-combustible decking and non-combustible cladding, panels, balustrades & materials would either be identical or very closely match the existing.

6.0 Assessment

- 6.1 Development is defined by section 55(1) of the 1990 Town and Country Planning Act (hereafter referred to as 'the Act') as '*the carrying out of building, engineering, mining or other operations, in, on, or under land or the making of any material change in the use of any buildings or other land*'.

For the purposes of this Act “building operations” includes—

- a) demolition of buildings;
- b) rebuilding;
- c) structural alterations of or additions to buildings; and
- d) other operations normally undertaken by a person carrying on business as a builder.

Section 55(2) of the Act states that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building.

6.2 In accordance with Section 55 of the Act, and relevant case law provided by the judgment of the High Court in '*Burroughs Day v Bristol City Council [1996] 1PLR 78*', an assessment must be made as to whether the proposed operations would result in a material effect on the external appearance of the building as a whole (not by reference to a part of the building taken in isolation) taking into account the nature of the building, such as its age and character, and whether it is listed or located within a conservation area.

6.3 It is firstly noted that the application site (1 Winchester Mews) forms part of a building also containing the Swiss Cottage Leisure Centre which is locally listed (ref. 340) by virtue of its architectural and townscape significance (see full listing details above).

6.4 After reviewing the application submission, it is considered by the Council that sufficient evidence has been provided to demonstrate that the proposed works would not materially affect the external appearance of the building as a whole, nor have any noticeable impact in this regard on the significance of the locally listed building, as defined under part 55(2)(a)(ii) of the Act.

6.5 As such, the works would not fall within the 'meaning of development' requiring planning permission as defined by Section 55 of the Act and the proposal is lawful. It is therefore recommended that a certificate of lawfulness be granted.

7.0 RECOMMENDATION: Grant certificate of lawfulness