

13th May 2024

ADL Planning Pty Ltd
Planning For Better

RE: Basement and Ground Floor Flat, 3 Mansfield Road - PP-13034830

Dear Planning,

Please find enclosed an application for a Certificate of Lawful Existing Use or Development for the Basement and Ground floor Flat, 3 Mansfield Road.

This application seeks confirmation that following the conversion of the property to a dwelling in 2013, the subsequent alterations and extensions that were undertaken by the owner over the following years, were all substantially completed more than four years ago and as such are now immune from enforcement action and are therefore lawful.

Section 191(2) of the Town and Country Planning Act 1990 sets out that operations are lawful when:

- (a) no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and,
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

S171B(1) of the Act states that

"Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—

- (a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed".*

However, the above time period of 10 years is only applicable to operational development that was substantially complete on or after 25th April 2024.

The Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024) provide for transitional arrangements for operational development that was substantially completed before 25th April 2024. These transitional arrangements note *"development becomes immune from enforcement if no action is taken within 4 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024"*¹.

The development the subject of this Certificate of Lawfulness was substantially complete by 17th October 2017. As such, the transitional arrangements apply and the development is immune from enforcement action after a period of 4 years.

The alterations and extensions undertaken between 2013 and 2017 as illustrated on Drawings B01 and B02 would have required planning permission. No permission was sought nor granted. However, in

¹ <https://www.gov.uk/guidance/ensuring-effective-enforcement>

accordance with section 171B of the Act (and the applicable transitional arrangements), due to the passage of time, no enforcement action can be taken.

The submitted evidence demonstrates that the:

- Internal plan changes
- Roof pitch change
- Section of parapet lowered
- Provision of external stairs
- Provision of doors to external stairs
- Provision of privacy screens to the roof terrace; and
- The provision of slatted timber fencing

were all substantially completed by 17th October 2017. The works have remained in situ as per the attached drawings ever since.

The applicant's evidence should be sufficiently precise and unambiguous to justify the grant of a certificate on (a) the balance of probability, and (b) there being no contradictory evidence.

The burden of proof is on the applicant and the Courts have held that the relevant test of the evidence of such matters is 'on the balance of probability'. If the local planning authority has no evidence to contradict the applicant's version of events, a certificate should be issued.

The application is accompanied by the following evidence:

- Sworn Statutory Declaration from the Applicant
- Plans showing the existing situation at the property now along with a colour coded key to show which elements were completed by which dates
- Photographs of the completed works
- The same photographs with date stamps
- Copy of the Building Control Certificate issued in respect of the original conversion of the office to a dwelling and the construction of the rear extension in May 2013.
- Copies of relevant Council Tax bills for the period 2013 to present

The application is accompanied by the following documents:

- Completed application form
- Site location plan with the application site outlined in red
- Copies of the evidence as listed above
- The fee has been paid via the Planning Portal.

I trust you have all the information you need to validate the application. Should you require anything further, please do not hesitate to contact me.

Kind regards,



MRTPI MPIA



ADL Planning Pty Ltd

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