

Delegated Report		Analysis sheet		Expiry Date:	08/04/2024
		N/A		Consultation Expiry Date:	N/A
Officer				Application Number(s)	
Blythe Smith				2024/0554/P	
Application Address				Drawing Numbers	
The Pryors East Heath Road Camden NW3 1BS				Refer to Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD		Authorised Officer Signature	
Proposal(s)					
Use and layout of the car park for the parking of 60 cars					
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 site comprises a pair of 5 and 6 storey residential buildings with car parking (the subject of this application) between the two buildings and in front of the eastern-most building. The site is located on the north side of East Heath Road.

The area is characterised by residential properties. The site is located in the Hampstead Conservation Area and, while not listed, the buildings on the site are identified in the Conservation Area Statement as making a positive contribution to the character and appearance of the Conservation Area.

Relevant History

APPLICATION SITE:

2008/3352/P - Installation of two conservation style rooflights to the south slope and one on the west facing roofslope. – **Granted 30/09/2008**

30286 - Formation of 6 additional car parking spaces. – **Refusal 09/06/1980**

Reason: “*The proposal involves a loss of amenity space which is detrimental to the visual appearance of the Pryors and the conservation area generally*”

6462 - Formation of car park - **Granted 27/02/1969**

5759 –Formation of a car park – **Granted 17/10/1968**

CTP/D7/3/A1 - Formation of car park, with posts and chains, dividing car spaces, in the forecourt of The Pryors, East Heath Road, Camden. – **Granted 07/07/1965**

Assessment

Background

The application site seeks to demonstrate that the existing car park has 60 car parking spaces to serve the associated apartments and that it has been in use for a consecutive period of at least ten (10) years before the date of the application. As such the (existing) use is lawful and a Certificate of Lawfulness should be issued.

Applicant's Evidence

1. Site Location Plan;
2. Previously Approved Site Plan (car parking layout);
3. Existing Site Plan (car parking layout);
4. Statutory Declarations from tenants of The Pryors;

Assessment of evidence

On the basis of the available evidence, Officers are satisfied that the car park has been in use for 60 vehicles for a continuous period of 10 or more years prior to the date of the application and the use is therefore lawful.

The evidence consists of:

- 22 sworn statements from occupiers of The Pryors testifying to the layout of the 60 car parking spaces for the whole of the relevant period
- An aerial photograph saved under a previous application (2008/3352/P) showing the existing 60 space car park layout in situ
- Google Maps images dated 2008 Showing the car park with 60 car parking spaces (as shown on the existing car park layout plan)

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 Practice 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 application for the certificate relates to the existing use of 60 parking spaces within the car park. The application is made on the basis that the use is lawful because it is now immune from enforcement action because it has occurred for a continuous period of more than four years, before the date of the application – in other words since at least 12 February 2014 ("the relevant period").

The Council does not have any evidence to contradict or undermine the applicant's version of events. The supporting information submitted in support of the application maintains that the car park has parking spaces for 60 for a consecutive period of at least 10 years before the date of the application.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' that the car parking space for The Pryors has been laid out for spaces of 60 vehicles for a consecutive period of at least ten years before the date of the application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Conclusion

Recommendation: Grant Certificate