

LDC (Proposed) Report	Application number	2024/2335/P
Officer	Expiry date	
Leela Muthoora	05/08/2024	
Application Address		
153 Fortess Road, London, NW5 2HR		
Conservation Area	Relevant article 4	
None	None relevant	
Proposal		
Proposed use as a restaurant from existing cafe.		
Recommendation:	Grant Lawful Development Certificate	

1. A Certificate of Lawfulness is sought for the proposed change of use of the property from a cafe (Class E (b)) to a restaurant (Class E (b)).
2. Section 55 of the Town and Country Planning Act 1990 defines “development”. Planning permission is required for most forms of “development” (unless excluded by Section 57). However, Section 55(2) states, amongst other things, that *“The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*
...
(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.”
3. The relevant Order is the Town and Country Planning (Use Classes) Order 1987 (as amended). Class E of the Order is broad and covers commercial, business, and service uses. These include: E(b) Sale of food and drink for consumption (mostly) on the premises.
4. The existing use as a café falls with Class E under paragraph E(b) Sale of food and drink for consumption (mostly) on the premises. The proposed use as a restaurant also falls within Class E, under paragraph E(b) Sale of food and drink for consumption (mostly) on the premises. There are no conditions attached to planning permissions that restrict changes within a use class. As such, the change of use would be for a purpose of the same class, and so would not constitute “development” as defined by Section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.
5. **Grant Certificate of Proposed Lawful Development.**