

Application ref: 2024/3179/P  
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**Development Management**  
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Iceni Projects  
44 Saffron Hill  
London  
EC1N 8FH  
United Kingdom

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Existing) Granted**

The Council hereby certifies that on the 05 August 2024 the use described in the First Schedule below in respect of the land specified in the Second Schedule below, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 as amended.

First Schedule: Use of ground and lower ground floor as Class E (unrestricted).

Drawing Nos: Cover Letter and Supporting Statement (prepared by Iceni); S 001 Rev 1; LG 005; G 005; Decision Notice - PL/8800483/R3; Legal agreement - PL/8800483/R3; Legal Agreement - PS9805221R2; Decision Notice - 2023/3391/P; Decision Notice - 2022/3007/P; Delegated Report - 2022/3007/P; Appeal Decision - APP/X5210/A/00/1046262; Lease document between E&A Property Investment Company and Tesco Stores (dated 26/04/2019); Lease document between Estates & Agency Holdings and Tesco Stores (dated 11/11/2005); Lease document between Shop Developments (Suburban) and Tesco Holdings (dated 20/07/1989).

Second Schedule:  
**40 Whitfield Street**  
**London**  
**W1T 2RH**

Reason for the Decision:

- 1 On the balance of probability, the lower ground and ground floors of the building have been in use continuously for purposes falling within commercial, business, and service use (Class E) for a period of at least ten years before the

date of this application and are not restricted to any particular use. Therefore, continued use of these floors within Class E is lawful.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2023.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is written over a light grey rectangular background.

Daniel Pope  
Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and thus, would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.