

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2022/3351/P
<b>Officer</b>		<b>Expiry date</b>	
Tony Young		30/09/2022	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
44-46 Caversham Road London NW5 2DS			
<b>Conservation Area</b>		<b>Article 4</b>	
Bartholomew Estate		Article 4 Direction (basements)	
<b>Proposal</b>			
Use of land for open storage of rental vehicles with no public access to the site (Class B8).			
<b>Recommendation:</b>	<b>Issue Certificate</b>		
<b>1.0 Introduction</b>			
1.1 The application site is an area of land located on the north side of Caversham Road and is situated within the Bartholomew Estate Conservation Area.			
1.2 The application seeks confirmation that the proposed use of land for the open storage of rental vehicles does not constitute development and is lawful such that planning permission would not be required.			
<b>2.0 Applicants Evidence</b>			
2.1 The applicant provided the following documents/drawings in support of the proposal:			
<ul style="list-style-type: none"> <li>• Site location plan (ref. PPL001);</li> <li>• Cover Letter from Planning Prospects Ltd. dated 05/08/2022.</li> </ul>			
<b>3.0 Background information</b>			
3.1 A Certificate of Lawfulness was granted at the application site on 20/05/2004 (ref. 2004/1361/P) for an existing use of the land as an open storage yard for building materials.			
<b>4.0 Assessment</b>			
4.1 Development is defined by section 55 of the 1990 Town and Country Planning Act as ' <i>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</i> '.			
4.2 It is firstly noted that planning history in relation to the application site does not include any conditions restricting the use of the premises. In particular, there is not a condition or restriction associated with the lawful use of the application site established in 2004 (ref. 2004/1361/P) which limits the use of the land for the open storage of building materials only.			
4.3 The applicant confirms that the proposed use of the site is for the open storage of car rental vehicles. The vehicles would be stored at surface level only. There would be no public			

access into the site. Enterprise anticipate that on average there could be around 30 rental vehicles (cars and vans) going to and from the site spread throughout the working day (i.e. on average around 3 to 4 vehicles per hour). This would involve individual rental car and van movements, rather than transporters (i.e. no large wagons or HGVs are anticipated). The storage site is needed in North London as a 'staging post' or overflow facility for its branches which will accommodate the rental vehicles where possible.

4.4 Vehicle movements in and out of the site would therefore be limited to those required for the purpose of storing the rental vehicles only and would not be used for vehicle parking in its traditional sense, and as differentiated by the Court of Appeal decision in *Crawley BC v Hickmet Ltd* [1998] JPL 210. In that particular case, the activity of using the site for the parking of passenger cars at Gatwick Airport while the owners were abroad amounted to commercial storage as the activity clearly indicated a primary use of land for car parking and not storage.

4.5 The applicant asserts that the proposed use would be similar in nature to the operation required to store building materials at the site, which was previously established to be a lawful use of the land, and that the proposed activity, therefore, also falls within the Use Class B8 (storage and distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

4.6 While the Certificate of Lawfulness issued in 2004 and associated Officer Delegated Report (ref. 2004/1361/P) do not refer to a specific Use Class, it is considered that the existing lawful use of the land for the open storage of building materials is consistent with a Class B8 use as defined by the above Order.

4.7 Furthermore, the proposed activity is not considered to amount to a different or separate use, either physically or functionally, from the established lawful use, nor would it result in any significant change in the character or use of any part of the 'buildings or other land' within the application site.

4.8 Section 55(2)(f) provides that 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 [i.e. the Use Classes Order], the use of the buildings or other land, or of any part of the buildings or other land, for any purpose in the same class is not to be taken for the purposes of the Act to involve development of the land.

4.9 The proposal would, therefore, not result in a material change of use, nor fall within the 'meaning of development' which would require planning permission, as defined by section 55 of the Town and Country Planning Act 1990.

4.10 Consequently, the proposal is lawful and it is recommended that a Certificate of Lawfulness be granted.

## **5.0 RECOMMENDATION: Grant Certificate of Lawfulness**