

25 October 2024

John Nicholls
London Borough of Camden
Planning Department
2nd Floor
5 Pancras Square C/O Town Hall
Judd Street
London
WC1H 9JE

PLANNING PORTAL REFERENCE: PP-13253157

Dear John,

**11-12 INGESTRE ROAD, LONDON, NW5 1UX
CERTIFICATE OF LAWFUL DEVELOPMENT FOR EXISTING DEVELOPMENT
SECTION 191 OF THE TOWN AND COUNTRY PLANNING ACT 1990**

On behalf of our client, Four Quarters, we hereby submit an application for a Certificate of Lawful Development to establish the Lawful Implementation of Development at 11-12 Ingestre Road pursuant to Planning Application Ref: 2018/4449/P, granted permission 18th August 2021.

Application Procedure

This Application has been submitted online via the Planning Portal website, and an online payment for the requisite application fee of £293 has been made via the Portal. This relates to the fee category for “other existing use/operation – other than winning and working of minerals”, of which the site area is calculated to be 7.2 square metres reflecting that of the RC ground bearing slab. The following documents are submitted in support of this application:

- Proposed Ground Floor Plan
- Proposed Basement
- Site Visit Report (comprising Photo Log of works carried out on-site and Structural details)
- Location Plan

Background

The original planning application (ref: 2018/4449/P) was granted full planning permission for the following description of development:

‘Erection of a six-storey building plus single storey basement to provide 50 Assisted Living residential units (1 x 1 bed, 41 x 2 bed, 8 x 3 bed), following demolition of the existing building

together with associated communal facilities, plant equipment, landscaping and 8 car parking spaces.

The Site is shown outlined in the Site Location Plan submitted as part of the original application.

The permission was subject to a Section 106 agreement, as well as 3No. pre-commencement planning conditions, which have been outlined in more detail below.

Conditions Discharge

There were 3No. pre-commencement planning conditions associated with the Planning Permission ref: 2018/449/P:

Condition 15 (Ref. 2024/1542/P)

- This condition states:

Prior to the commencement of any works, details demonstrating how trees to be retained both on and off site shall be protected during construction work shall be submitted to and approved by the Council in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction" and should include details of appropriate working processes in the vicinity of trees, a tree protection plan and details of an auditable system of site monitoring. All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details."

- To discharge Condition 15, an Arboricultural Method Statement was submitted to Camden Council on 18th of April 2024, prepared by Simon Jones Associates.
- Condition 15 was fully discharged by Camden council on the 20th of June 2024.

Condition 16 (Ref. 2024/1616/P)

- This Condition states:

At least 28 days before the development hereby permitted commences a written detailed scheme of assessment consisting of site reconnaissance, conceptual model, risk assessment and proposed schedule of investigation must be submitted to the planning authority. The scheme of assessment must be sufficient to assess the scale and nature of potential contamination risks on the site and shall include details of the number of sample points, the sampling methodology and the type and quantity of analyses proposed. The scheme of assessment must be approved by the LPA and the documentation submitted must comply with the standards of the Environment Agency's Model Procedures for the Management of Contamination (CLR11).

- To discharge Condition 16, full required details have been submitted to Camden Council within two reports: A Ground Assessment and Investigation Report, dated July 2021 and prepared by LMB Geosolutions Ltd; and a Summary of Land Contamination Assessment and Risk Management Actions for 11-12 Ingestre Road, dated 9th April 2024 and prepared by LMB Geosolutions Ltd.
- Condition 16 was fully discharged by Camden Council on 27th of June 2024.

Condition 22 (Ref. 2024/1356/P)

- The condition states:

Prior to implementation of the development a plan showing details of biodiversity enhancements on the buildings and within the open space (including bird and bat boxes) appropriate to the development's location, scale and design (including wetland areas) shall be submitted to and approved in writing by the local planning authority. The measures shall be installed in accordance with the approved plans prior to the occupation of the development and thereafter retained.

- To discharge Condition 22, a Biodiversity Enhancement Strategy, dated March 2024 and prepared by The Ecology Partnership was submitted to Camden Council on the 8th of April 2024. The Biodiversity Enhancement Strategy provided the full details needed, including the Native Planting and Integral bird boxes.
- Condition 22 fully was discharged by Camden Council on 20th of June 2024.

Condition 24 (Ref. 2024/1981/P) – PRIOR TO DEMOLITION

This condition is not a pre-commencement requirement and only required prior to demolition. The implementation was conducted through ground works rather than demolition and therefore, this condition does not need to be discharged. However, to ensure thoroughness and compliance, it has been submitted for completeness.

- This condition states:

Prior to works of demolition, a Reuse and Restoration strategy should be submitted to the local planning authority and approved in writing. The strategy should include details of:

a) how the building, materials and plant equipment will be disassembled and reused

b) timings for disassembly and the site restoration/build out.

The disassembly and site restoration must be undertaken in accordance with the approved details.

- To Discharge Condition 24, a Reuse and Restoration Strategy, dated May 2024 was prepared by Create Consulting Engineers and submitted to Camden Council on 17th May 2024. Camden Council's initial response on the 5th of June 2024 requested a pre-demolition audit, which was to be included within the Reuse and Restoration Strategy. The updated Reuse and Restoration Strategy including the pre-demolition audit as per the council's request, was submitted to the case officer via email on the 31st July 2024.

- Condition 24 was fully discharged by Camden Council on 11th September 2024.

As such, all pre-commencement conditions have been discharged, allowing for the lawful implementation of the planning permission to take place.

Purpose of this Application

This application is submitted pursuant to Section 191 (1) of the Town and Country Planning Act 1990 and seeks to ascertain whether:

"...(b) any operations proposed to be carried out in, on, over or under land, are lawful..."

Confirmation is sought that the works undertaken to date have lawfully implemented the Permission, and further works pursuant to that permission can be undertaken, without enforcement action being taken by the Local Planning Authority.

Commencement of Development

Section 56 (1) of the Town and Country Planning Act 1990 takes development of land to be initiated *'if the development consists of the carrying out of operations, at the time those operations are begun'*.

Section 56 (2) takes development to be commenced on the earliest date that any **material operation** comprised in the development is carried out on site.

Material Operation is defined in Section 56(4) as:

" (a) any work of construction in the course of the erection of a building;

(aa) any work of demolition of a building;

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph(b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development."

Section 336(1) of the Town and Country Planning Act 1990 defines 'building' as including any structure or erection of any part of a building. The same provisions of this Act define 'erection' as including extension, alteration or re-erection.

Evidence of Commencement

The works carried out on site (on 16th August 2024 to implement the scheme before the expiry of the permission on 18th August 2024), relate to a section of the reinforced concrete (RC) ground bearing slab.

This ground bearing slab is a raft foundation slab used to support the lightwell for the basement (as shown on the approved ground floor plan DWG no. A-P11-01) and forms part of the substructure of the overall building.

The raft slab is situated within the lower courtyard area which directly relates to the layout and built form of the approved development within the site's redline boundary.

The 'Site Visit Report', submitted in support of this application confirms that an appointed engineer (Sam Margrave – Jones MEng CEng AIStructE) attended site at 8:15am on 16 August 2024 to carry out a pre-pour review of the proposed reinforced concrete (RC) ground bearing slab.

Photos of the concrete pour are included within this report but were not observed by the appointed engineer but provided by the contractor. The report also details the structural sketches for raft foundation.

The construction of the raft foundation slab is in accordance with limb (b) of Section 56(4) of the Town and Country Planning Act 1990 which defines a material operation as "*the digging of a trench which is to contain the foundations, or part of the foundations, of a building.*"

Planning Assessment

The relevant test for determining a Certificate of Lawful Development is whether the Applicant in question has demonstrated, on the balance of probabilities, that planning permission has commenced lawfully. We would therefore invite the Council to consider the following:

- The three pre-commencement conditions have been discharged prior to works taking place.
- Clear and incontrovertible evidence has been provided which shows that works were carried out on the property, pursuant to the plans approved as part of the Permission, in the period prior to the expiration of Permission on the 18th of August 2024.
- As a matter of Law, works are sufficient to show evidence of the intention to carry on the development – the works have been carried out to enable the development. The works which have been carried out meet the definition of a material operation, as outlined in Section 56(4) (b) of the Town and Country Planning Act 1990.

It is clear that the works meeting the test of Section 56 of the Town and Country Planning Act were carried out prior to the expiry of the permission, and that all pre-commencement conditions have been discharged in full prior to those works.

Summary and Conclusion

This application demonstrates that on the balance of probabilities, '*material operations*' pursuant to the permission have been carried out in accordance with the approved plans and relevant conditions, and prior to the expiration of the planning permission.

Therefore, we seek confirmation that the commencement of the development shown in the approved drawings is lawful and request the issuance of a Lawful Development Certificate for the development granted on 18th August 2021.

We trust the enclosed information will be sufficient, and enable the application to be registered, but please do not hesitate to contact me should you have any questions in connection with the submitted documents or require any additional information at this stage.

Yours sincerely,

William Omoma

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