

LDC (Proposed) Report		Application number	2025/0487/P
Officer		Expiry date	
Connie Marinetto		01/04/2025	
Application Address		Authorised Officer Signature	
Flat 401 Corner House 36 Tottenham Street London W1T 4DB			
Conservation Area		Relevant article 4	
Charlotte Street			
Proposal			
Siting of hot tub on existing private roof terrace at fifth floor level.			
Recommendation:		Grant Lawful Development Certificate	
<p><u>Introduction</u></p> <p>The application site comprises a two-storey, three-bedroom apartment (Flat 401) that occupies the fourth and fifth floor of a modern mixed-use development. The wider development comprises commercial uses at basement and ground floor levels with residential units above. A Certificate of Lawfulness was granted in June 2024 for the amalgamation of flat 401 with flat 302 (located on the third floor) to form a single family dwelling. The site is not listed but is located within the Charlotte Street Conservation Area.</p> <p><u>Proposal</u></p> <p>A Certificate of Lawfulness is sought to certify the lawfulness of the siting of a hot tub on the existing private roof terrace at fifth floor level.</p> <p>The application seeks to confirm that, the proposed works do not constitute development under Section 55 of the Town and Country Planning Act 1990 (as amended), and therefore does not require planning permission.</p> <p><u>Relevant Planning History</u></p> <ul style="list-style-type: none"> • 2012/2045/P – Erection of a part 3/4/5 & 6 storey building plus basement level for a mixed use development comprising of 11 residential units (Class C3) and 253sqm of office (Class B1) floorspace at part basement and ground floor level, following demolition of existing buildings at 73-75 Charlotte Street & 34-38 Tottenham Street and 4 Tottenham Mews. Granted 13/12/2012. • 2024/1387/P – Amalgamation of two existing flats (302 and 401) into a single family dwelling (Use Class C3). Granted 06/06/2024 <p><u>Assessment</u></p>			

The definition of 'development' and 'new development' is defined by section 55(1) of the 1990 Town and Country Planning Act as *'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'*.

For the purposes of this Act "building operations" includes—

- a) demolition of buildings;
- b) rebuilding;
- c) structural alterations of or additions to buildings; and
- d) other operations normally undertaken by a person carrying on business as a builder.

Section 55(2) of the TCPA goes on to state that the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building.

The proposal involves the siting of a hot tub on an existing private roof terrace at fifth floor level. It has been demonstrated that the proposal would not materially affect the external appearance of the building. The hot tub is to be placed away from the edge of the building, behind the terrace balustrade and against the lift overrun, and is to be clad in composite wood to match the existing decking. The applicant has submitted a planning sightlines document which demonstrates that the hot tub would be largely concealed by the existing building mass, with only minimal visibility from a western approach along Tottenham Street. While the structure may have some visibility from some private views, such as upper floors of neighbouring properties, this is not considered to equate to a material change in the external appearance of a building for the purposes of Section 55 of the Act. In this case, even where some private visibility exists, the scale, temporary nature, discreet siting, and external treatment of the hot tub means it would not significantly alter the character or appearance of the building as a whole.

As such, the applicant is considered to have provided sufficient evidence to demonstrate that the proposed works would not materially affect the external appearance of the building, and would not fall within the meaning of 'development' requiring planning permission as defined by Section 55 of the TCPA.

Furthermore, the temporary nature of the hot tub adds weight to this position. It is not to be structurally fixed to the building in any way and only requires connections to existing water and electricity supplies. These can be disconnected without affecting the fabric of the building. The hot tub's non-permanent nature supports the view that the siting does not constitute a building operation requiring planning permission and does not materially affect the appearance of the building.

On this basis, the applicant has demonstrated that the works would not amount to development. As such, it is recommended that a Certificate of Lawfulness be granted.

Conclusion

The proposed works would not constitute 'development' as defined by section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.

RECOMMENDATION: Grant Certificate of Lawfulness