

# CHRISTOPHER WICKHAM ASSOCIATES

## Town Planning Consultancy

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Your ref:

Our ref: CWA/CMW/pl/1155

Date: 27<sup>th</sup> June 2016

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Development Management  
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### VIA THE PLANNING PORTAL

Dear Sir or Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)  
SITE AT 6A DALEHAM GARDENS, LONDON NW3  
APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE  
PLANNING PORTAL REF: PP-05231369**

I refer to the above site, and to the application for a Lawful Development Certificate (LDC) to confirm the commencement of works in accordance with condition 1 (within 3 years of the date of permission) of planning permission 2010/3820/P ("the planning permission") granted on 8<sup>th</sup> October 2010 to *'excavate to form 2 self-contained flats within the basement including excavation of lightwells at the front and rear (Class C3)'*.

The commencement works undertaken prior to the expiry of the planning permission comprised the construction of a side retaining wall ("the retaining wall") to the rear basement lightwell.

In addition to the application forms and appropriate application fee, the following documentation is submitted:-

- Approved drawing 1082/3A with commencement works highlighted in red;
- Planning approval 2013/4462/P dated 22<sup>nd</sup> August 2013 discharging conditions 3 & 4 of the planning permission;
- Drawings numbers 394/099P2 and 394/165 prepared by Form London Limited prior to the commencement of works indicating the position and structural details of the retaining wall;
- Photographs of the top surface of the retaining wall;
- The Building Control Approval Final Certificate dated 4<sup>th</sup> October 2013 for *'new retaining wall to the rear of the basement on the north elevation'* at 6a Daleham Gardens, London NW3 5DA, issued by Building Control Approval Limited;
- A letter from Ms Connie Petrou, s.106 officer of Camden Council, confirming the discharge of the relevant clause of s.106 agreement with

- regard to the approval of a Construction Management Plan (CMP), received as an attachment to an email on 22<sup>nd</sup> August 2013; and
- An email dated 18<sup>th</sup> September 2013 from this practice to Ms Connie Petrou confirming the commencement of works pursuant to the planning permission on the same date.

### **Relevant Planning History**

The application property is located on the east side of Daleham Gardens, and is divided into 3 self-contained flats. The ground floor flat, known as Flat A, includes a cellar/basement area.

The planning permission was granted on 8<sup>th</sup> October 2010 under reference 2010/3820/P for the '*renewal of planning permission 2007/1596/P to excavate to form 2 self-contained flats within the basement including excavation of lightwells at the front and rear (Class C3)*'. The approved scheme involves the enlargement of the existing basement, and the creation of basement lightwells to the front and rear of the property. The enlarged basement would be laid out to provide 2no. self-contained flats.

The planning permission was subject to pre-commencement conditions 3 and 4 which were discharged on 22<sup>nd</sup> August 2013 under reference 2013/4462/P. The planning permission was also subject to a s.106 agreement requiring a CMP and 'Car-free' development. The pre-commencement requirement of the s.106 agreement with regard to the submission and approval of the CMP was discharged on 22<sup>nd</sup> August 2013.

Works on the implementation of the planning permission began on 18<sup>th</sup> September 2013, and comprised the construction of the retaining wall that will form one side of the rear lightwell. This wall runs from the left hand (when viewed from the front of the property) rear corner of the application property into the rear garden as far as the point where it will meet the (as yet not constructed) rear wall of the rear lightwell. The LDC application is accompanied by approved drawing 1082/3A with the location of the commencement works highlighted in red.

### **The Application and Supporting Evidence**

The LDC is sought to confirm that the planning permission was lawfully implemented within 3 years in accordance with condition 1 of the planning permission. For the reasons listed below, it is considered that the LDC should be granted:-

- The construction of the retaining wall amounted to a material operation under s.56 of the Town and Country Planning Act 1990. A material operation is defined to include any work in the course of the erection of a building. Development may be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out;
- The construction of the retaining wall was self-evidently a material operation comprised in the development. The position and form of the retaining wall are consistent with the details of the planning permission, as evidenced by the drawings prepared by Form London Limited lodged with this application;

- The retaining wall was constructed prior to the expiry of the planning permission, as evidenced by the Final Certificate issued by Building Control Approval Limited on 4<sup>th</sup> October 2013. This followed the lodging of a Building Control application (ref: 13/5/10174) by the same company;
- Prior to the construction of the retaining wall, the pre-commencement conditions of the planning permission were fully discharged; and
- Prior to the construction of the retaining wall, the pre-commencement requirement of the s.106 agreement was discharged, and notification of the commencement of works was given to the Council, as required by the s.106 agreement.

I look forward to the early and favourable determination of this LDC application. In the meantime, if you require any further information, please do not hesitate to contact me.

Yours faithfully,

A large black rectangular redaction box covering the signature of Christopher M. Wickham.

CHRISTOPHER M. WICKHAM