

LDC (Proposed) Report	Application number	2016/3329/P
Officer	Expiry date	
Kate Phillips	16/08/2016	
Application Address	Authorised Officer Signature	
112 Malden Road London NW5 4BY		
Conservation Area	Article 4	
Proposal		
Change of use from retail (Class A1) to residential (Class C3) to create 1 no. self-contained 1-bed flat at ground and basement level		
Recommendation:	Grant Certificate of Lawfulness (Proposed)	

Assessment

Site description:

No. 112 Malden Road is a mid-terrace, 3 storey, brick building on the eastern side of the road. The building comprises a retail unit on the ground floor with residential accommodation on the upper floors. At the time of the officer's site visit (13/01/2016), the retail unit was closed with the shutters down, but the fascia still advertises "Fruit Express".

The application site is within a designated Neighbourhood Centre (Queen's Crescent). The building is not listed and the application site is not within a conservation area.

Relevant history:

2015/6803/P - Change of use from retail (Class A1) to residential (Class C3) to create 1 no. self-contained 1-bed flat at ground and basement level – Prior Approval required – Approval Refused 29/01/2016

2003/3118/P - Conversion of basement into a 1-bedroom self-contained flat and creation of new front lightwell - Refused 26-02-2004

Assessment:

An application was made to the Council under The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (hereafter referred to as 'the legislation') to change the use of the ground and basement floors of the building from retail use (Class A1) to residential use (Class C3), to provide 1 no. self-contained 1-bed flat (planning

application reference 2015/6803/P).

The application was submitted to the Council on Tuesday 1st December 2015 and the relevant fee was paid on Friday 4th December 2015. This means that, for the purpose of the legislation, the application was received by the Council on Friday 4th December 2015.

Paragraph W (Procedure for applications for prior approval under Part 3), part (11) states the following:

The development must not begin before the occurrence of one of the following—

- (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;*
- (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or*
- (c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.*

Section 2(9) of the legislation provides that:

Where the electronic communication is received by the recipient outside the recipient's business hours, it is taken to have been received on the next working day; and for this purpose "working day" means a day which is not a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(30).

The Council issued a decision notice on Friday 29th January 2016 at 1736 hours to confirm that prior approval was refused for the proposed works; however, the planning agent's office closed at 1730 hours (which has been verified by their website) and therefore, in line with Section 2(9) of the legislation, the notice is taken to have been received on Monday 1st February 2016, which is outside of the 56 day period referred to in paragraph W(11)(c) of the legislation.

The proposed development can therefore proceed and a certificate of lawfulness (proposed) can be issued pursuant to section 192 of Town and Country Planning Act 1990.

Recommendation: Grant Certificate of Lawfulness (Proposed)