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08 May 2017

Head of Development Control
London Borough of Camden
London Borough of Camden 2nd Floor
5 Pancras Square
c/o Town Hall
Judd Street
London WC1H 9JE

Planning Portal Reference PP-06052326

Dear Sir or Madam,

77 AVENUE ROAD, LONDON, NW8 6JD

CERTIFICATE OF LAWFUL PROPOSED USE OR DEVELOPMENT (SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS AMENDED)

IMPLEMENTATION OF PLANNING PERMISSION REFERENCE: 2016/2581/P

Montagu Evans LLP has been instructed to submit an application for a Certificate of Lawful Proposed Use or Development (CLOPUD) by Mr Sam Lipton in respect of 77 Avenue Road ("the Site"). The applicant seeks confirmation that application 2016/2581/P has been lawfully commenced.

Background

Planning permission was granted on 30 May 2014 under permission reference 2013/2043/P for:

"Renewal of permission 2010/0351/P dated 06/05/2010 (Erection of a new three-storey single family dwellinghouse (Class C3), following demolition of existing three-storey single family dwellinghouse)"

Condition 1 of that permission required that the permitted development be begun not later than the end of three years from the date of that permission (ie by 30 May 2017).

The permission was subject to a s73 application, approved on 21 November 2016, reference 2016/2581/P, to vary Condition 2 ('Approved Plan') and allow for alterations to the approved siting of windows on the rear and front elevation.

Planning permission 2016/2581/P lists the following drawings as approved:

- SK01P1

- PL02A
- PL03
- PL04
- PL05A
- PL06
- PL09
- PL10
- PL11
- PL12B
- PL13B
- PL14A
- PL15A
- PL16
- PL17
- PL18
- PL19
- PL20
- PL21
- PL22
- PL23
- PL24
- PL25

The 2014 and 2016 decisions, incorporating the s106 Agreements, are included at **Appendix 1** alongside a site location plan.

Works to commence planning permission 2016/2581/P must be undertaken by 30 May 2017 as set out in Informative 2. This informative states:

“This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions and obligations as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).”

Under planning permission 2013/2043/P, there are four conditions which required further details to be discharged prior to the commencement of development. These are:

- Condition 3 (Appointment of Qualified Engineer);
- Condition 4 (SuDS and Drainage);
- Condition 7 (Tree Protection); and
- Condition 9 (Details of Hard and Soft Landscaping).

These four conditions precedent were discharged by the local planning authority on 16 February 2017 under decision reference 2016/3579/P. A copy of this decision notice is found at **Appendix 2**.

The local planning authority has also confirmed that the relevant pre-commencement planning obligations subject to the legal agreement dated 30 May 2014 (as varied by way of deed dated 21 November 2016) have been discharged. This includes:

- the approval of a draft Construction Management Plan (Clause 4.1);

- a Highways Payment (Clause 4.2);
- the approval of a Levels Plan (Clause 4.2); and
- the approval of a Sustainability Plan (Clause 4.3).
- Clause 5 Notice of implementation date.

Accordingly, all pre-commencement planning conditions and s106 obligations associated with planning permission 2016/2581/P have been discharged.

Commencement of Development

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

Section 56 (2) states that development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.

'Material operation' is defined in Section 56 (4) as:

- a) any work of construction in the course of the erection of a building;*
- b) any work of demolition of a building;*
- c) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;*
- d) 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);*
- e) any operation in the course of laying out or constructing a road or part of a road;*
- f) 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 and any part of a building. The same provisions of this Act define 'erection' as including extension, alteration or re-erection.

Works Undertaken

Works have been undertaken by our client at 77 Avenue Road by commencing piling. This work to create part of the foundations of the new building is a material operation in the meaning of Section 56 (4) (a) and (d) and therefore the works pursuant to permission reference 2016/2581/P have commenced.

The following evidence is submitted with this application:

- Photographs of the work taking place (**Appendix 3**);
- Tender Package for commencement pile (**Appendix 4**);
- Quote for pile by Trenchco and confirmation of instruction dated 03 April 2017, and invoice for works dated 05 May 2017 (**Appendix 5**);
- Tree Protection Plan prepared by Barrel Tree Consultancy (reference 16377-BT1) and letter from Barrel Tree Consultancy confirming that the tree protection measures were installed in accordance with details approved pursuant to condition 7 of permission reference 2013/2043/P (letter dated 28 April 2017, including photographs of the installation of the tree protection measures) (**Appendix 6**);
- Pile Design plans in accordance with proposals approved under permission 2016/2581/P, prepared by structural engineers Constructure (**Appendix 7**);

- A letter from Montagu Evans LLP, dated 18 April 2017, discharging a deed of consent with Eyre Estate, to allow commencement of 2016/2581/P, in accordance with the terms of a restrictive covenant associated with this land (**Appendix 8**).

The above set of evidence demonstrates that on the balance of probabilities, material operations relating to planning permission reference 2016/2581/P commenced prior to 30 May 2017.

This application seeks confirmation that the completion of the development shown in the approved drawings is lawful.

The CLOPUD should therefore be issued to certify that the development permitted on 21 November 2016 can be completed at any time.

Administrative Matters

In order to allow the determination of these applications, we enclose the following generic information:

- application form, duly signed and dated; and
- a Site Location plan.

A fee of £192.50, calculated in accordance with The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, will be made to the council via its online payment account. This fee has been calculated on the basis of half the fee for a new dwellinghouse application. We trust that the information submitted is in order and allows you to register and determine this certificate application. Should you have any queries please contact Tim Miles (tim.miles@montagu-evans.co.uk / 020 7312 7444) or Tim Chilvers (tim.chilvers@montagu-evans.co.uk / 020 7312 7406).

Yours faithfully,

Montagu Evans

MONTAGU EVANS LLP