

LDC Report	25/09/2017
Officer	Application Number
Nora-Andreea Constantinescu	2017/4198/P
Application Address	Recommendation
2 Chester Gate London NW1 4JH	
1st Signature	2nd Signature (if refusal)
Proposal	
Use as offices (Class B1(a)).	
Assessment	
<p>Application Site</p> <p>1.1 The application relates to a Grade II listed building, with five storeys to include basement, located on the southern side of Chester Gate. The area is characterised by residential properties Grade I or Grade II listed. The property is located within Regents Park Conservation Area, in very close proximity to Regents Park.</p> <p>Proposal</p> <p>1.2 Planning permission was granted for the change of use of 6-10 Cambridge Terrace and 1-2 Chester Gate ("Wider Site") from offices (Class B1) to 3 x dwellinghouses (Class C3), under application ref no 2009/3041/P, as subsequently varied by 2015/1340/P ("Permission"). The applicant seeks to demonstrate that the planning permission and its subsequent variation have not been implemented at the application site and that the established, lawful use of the property remains in office use (Class B1) for the whole No. 2 Chester Gate building.</p> <p>1.3 To satisfy the above, the applicant is required to demonstrate, on balance of probability that either planning permission reference 2009/3041/P as amended by reference 2015/1340/P was not implemented at 2 Chester Gate or that the existing use has been in situ for a period of 10 or more years (where an unapproved change of use has occurred).</p> <p>Applicant's Evidence</p> <p>1.4 The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Cover Letter (dated July 2017) • Note supporting CLEUD application (dated July 2017) • Signed affidavit from the Project Manager of CPC London (dated August 2017) • Signed affidavit from the Managing Director of the EE Smith Contracts Ltd. ("EES") (dated August 2017). 	

- Site location plan outlining the application site.

Council's Evidence

Planning history

1.5 The site has been subject to various works. The summary of the relevant planning history for the property is given below:

CTP/L11/11X/A/27908/ - 1-10 Cambridge Terrace, 55-83 Albany Street, 1-5 Chester Gate and Cambridge Terrace Mews, NW1 - Change of use and works of conversion and extension at 55-81 Albany Street to form 10 x 1-bedroom flats, 10 x 2-bedroom maisonettes, 4 dwelling houses, 1 retail shop and basement parking; - Refused planning permission – 21/12/1979

34469/R3 - 1-10 Cambridge Terrace, 55-81 Albany Street, 1-4 Chester Gate & Cambridge Therr Mews, NW1 - The conversion alteration and extension to the rear of 1 & 2 Chester Gate to from offices – Planning permission Granted – 15/06/1983

2004/1789/P - 1 - 2 Chester Gate - Change of use from office into a 2-bedroom flat and internal alterations. – Withdrawn decision – 11/08/2004

2005/2878/P (2006/3064/L) - 1/2 Chester Gate & 10 Cambridge Terrace - The replacement of 2x existing pavement vault doors with metal grille doors to facilitate the installation of a cooling system for the existing office use. – Planning permission Granted – 04/11/2005

2009/3041/P (2009/3051/L) - 6-10 Cambridge Terrace and 1-2 Chester Gate - Change of use of 6-10 Cambridge Terrace and 1-2 Chester Gate from offices (Class B1) to 3 x dwellinghouses (Class C3), excavation of basement, alterations at roof level, including rebuilding part of roof and installation of glazed sliding roof, lift overrun and rooflight to 6-10 Cambridge Terrace, rooflights on 1-2 Chester Gate and associated landscaping works to forecourt. – Planning permission Granted subject to s106 – 07/09/2010

2011/0948/P - 6-10 Cambridge Terrace and 1-2 Chester Gate - Details of acoustic report, including details of any proposed noise mitigation measures, to demonstrate that indoor noise levels within the residential accommodation will be below BS8233 pursuant to condition 3 of planning permission granted on 07/09/10 (ref: 2009/3041/P) for the change of use from offices (Class B1) to 3 x dwellinghouses (Class C3), excavation of basement, alterations at roof level, including rebuilding part of roof and installation of glazed sliding roof, lift overrun and rooflight to 6-10 Cambridge Terrace, rooflights on 1-2 Chester Gate and associated landscaping works to forecourt. – Planing permission Granted – 14/03/2011

2014/1837/P - 6-10 Cambridge Terrace & 1-2 Chester Gate - To establish that the installation of rooflights was a lawful operation and forms part of the developments approved by planning permission 2009/3041/P granted 07/09/2010. – Certificate of Lawfulness (Existing) Granted – 29/05/2014

2015/1340/P (2015/1817/L)- 6-10 Cambridge Terrace and 1-2 Chester Gate - Variation of condition 8 (approved plans) of planning permission 2009/3041/P dated 07/09/2010 (for change of use from offices to 3 x dwellinghouses) namely to reconfigure and enlarge basement. – Planning permission Granted subject to s106 – 23/11/2015

2015/1778/P - 6-10 Cambridge Terrace and 1-2 Chester Gate - Addition of approved drawing numbers condition to planning permission 2009/3041/P dated 07/09/2010 – Non-Material Amendment Granted – 10/04/2015

2015/6946/P - 6-10 Cambridge Terrace and 1-2 Chester Gate - Alterations to internal layout and reconfiguration of residential units to 'change of use of 6-10 Cambridge Terrace and 1-2 Chester Gate from offices (Class B1) to 3 x dwellinghouses (Class C3) including excavation of basement and alterations at roof level' approved under planning reference 2009/3041/P dated 07/09/2010. – Non-Material Amendment Granted – 14/01/2016

2016/5891/P - 6-10 Cambridge Terrace and 1-2 Chester Gate - Internal reconfiguration of flats and external alterations including new rooflights to mansard, moving building services equipment to existing vaults and reduction in lift overrun, as amendments to 'change of use of 6-10 Cambridge Terrace and 1-2 Chester Gate from offices (Class B1) to 3 x dwellinghouses (Class C3) including excavation of basement and alterations at roof level' approved under planning reference 2009/3041/P dated 07/09/2010, as modified by applications 2015/1340/P dated 23/11/2015 and 2015/6946/P dated 14/01/2016 - Non-Material Amendment Granted – 10/11/2016

2017/3570/P - Variation of condition 8 (approved plans) of planning permission 2009/3041/P, dated 07/09/2010 (as amended by 2015/1778/P, dated 10/04/2015) (for change of use of 6-10 Cambridge Terrace and 1-2 Chester Gate from office to residential to provide 3x dwellinghouses, and associated works), namely to allow proposed amendments to the sliding roof light to No. 9 Cambridge Terrace. – Pending consideration

Other records

- 1.6 Valuation Office Agency (VOA) in relation to business rates records are not available for this property.
- 1.7 Valuation Office Agency (VOA) in relation to Council Tax records shows that 1-2 Chester Gate has been deleted as a residential unit in 1993. (Local authority VOA ref. 00818000120002).
- 1.8 A site visit to the property was undertaken on the Tuesday 10th of October 2017. The officer was satisfied that the unit was still in the office use.
- 1.9 The redevelopment of the Wider Site has been addressed in various press articles and confirm the use of the premises as office. (Evening Standard – London's biggest home to be created in Regent's Park – dated 02/02/2010; Telegraph – London's biggest home may sell for £100m – dated 03/02/2010)

Assessment

- 1.10 The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits

of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

Submitted evidence

- 1.11 Evidence has been submitted in the form of sworn affidavits, cover letter and notes in order to demonstrate that the use of the property has not changed as part of the previous permission and remained within the office use (Class B1).
- 1.12 The Notes supporting this certificate state that prior to the to the planning application being submitted, the application site was an individually occupied unit as Class B1(a) office. The Site was accessible from its own entrance, physically separate to that of 1 Chester Gate. The use of the site was not ancillary to the use of the Wider Site – it was used as a functionally separate planning unit. It is also confirmed that drawings included in the Permission show the site as a one separate unit labelled ‘House 2’, which reinforces the units separation.
- 1.13 Furthermore, the Notes confirm that the Permission has been implemented in relation to other planning units within the Wider Site, however material works have not been undertaken at 2 Chester Gate, neither in the form of a change from office use, nor by the installation of rooflights which were the only external works permitted at the application site under the Permission. It is stated that the building has continued in its use as a Class B1(a) offices accommodating various employees of the Developer and those of contractors engaged in the development of the adjacent sites. As such, it is confirmed that the application site comprises ancillary plant and storage areas at lower ground level, a reception area on the ground floor, with stairs leading to offices, meeting rooms, an ancillary kitchen and storage areas on the upper three floors.
- 1.14 The affidavit submitted by the Managing Director with EE Smith Contracts Ltd. (“EES”) states that has been working at 2 Chester Gate since EES were appointed as fit-out contractors for the redevelopment of Wider Site. This affidavit confirms that the site is currently in use as offices as EES is using it as an administrative office hub and operates the management of the wider redevelopment. Since March 2017, 12 permanent management staff have been based at the Site, including staff from EES and from sub-contractors PRIORITY and Environ. The facilities on site include permanent desk spaces, meeting rooms, storage, welfare and canteen facilities.
- 1.15 The affidavit submitted by Project Manager at CPC London, confirmed to be appointed project manager for the redevelopment of Wider Site since October 2015. In addition to the previous affidavit, this one confirms that from 2014 prior to March 2017 the application site was used as offices by Bouygues UK Ltd, to include 16 permanent staff, who were the appointed construction contractors for the redevelopment of Wider Site. Furthermore, the affidavit states at the time of the original planning permission was granted (2009/3041/P), Cancer Research UK occupied the Site for office use, which were vacated at some point in 2010.
- 1.16 Both affidavits confirm that the application site is physically separated from 1 Chester Gate as there is no internal access between the two units; each unit having its own individual entrance and the front gardens between the two units are separated by a fence.
- 1.17 These affidavits represent sworn, witnessed statements and as it is the case that if an individual knowingly makes a false a statement in an affidavit they commit an offence and

could be fined or imprisoned; significant weight is awarded to this evidence.

Council's evidence

- 1.18 The Council's planning history for the site shows that prior to the application for the redevelopment of the Wider Site, the application site or at least part of it has been in office use since 1983. Planning permission granted 2005 (ref no: 2005/2878/P) clearly states the existing use of the premises as offices.
- 1.19 The VOA records in relation to Council Tax, show the application site being removed from the list of residential properties on 01/04/1993, which confirms that the application site was no longer in residential use.
- 1.20 The site visit revealed that the application site is and appears to be occupied for a long time by EES and other sub-contractors. The site facilities as described by the applicant are existent in situ.

Conclusion of assessment

- 1.21 On balance it is considered that the evidence submitted is adequate to demonstrate that on the balance of probability, the use of the property at 2 Chester Gate has remained in office use (ClassB1(a)), at least since 2005 and that continued use of the premises as such would remain lawful. The evidence provided by the applicant is deemed to be sufficiently precise and unambiguous and furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve certificate of lawfulness.