

26 April 2018



Regeneration and Planning  
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Dear Sir/Madam

**Certificate of Lawful Development**  
**35 Elsworthy Road, London, NW3 3BT**

On behalf of the applicant, we write to submit an application for a Lawful Development Certificate to establish the implementation of planning application Ref 2014/5463/P and the resultant conversion of 35 Elsworthy Road from two flats into a single family dwelling along with associated alterations.

Planning permission was granted by Camden Council on 14 January 2015 for the following development:

*'Conversion from 2 flats into single family dwelling house including excavation of basement under footprint of house and rear garden with side and rear lightwells, erection of a 2-storey curved bay to rear to replace existing 1-storey angled bay and demolition of side addition.'*

This application thereby seeks to establish the application was implemented within the required three years from the date of consent.

In respect of the application, we enclose the following:

- Covering Letter as prepared by Savills;
- Site and Location Plan;
- Copies of the Planning Decision Notice and S106;
- A Supporting Statement prepared by Clyde & Co LLP;
- Signed Statutory Declaration dated 05 April 2018;
- Letter of Intent between Trenchco Ltd and Deacon and Jones LLP dated 08 November 2017;
- Bureau Veritas Building Control Ltd – Site Inspection Record dated 24 November 2017;
- Considerate Constructors Scheme Invoice – Dated 22 November 2017

**The Site**

The application property is a single five storey terraced building located on Cornwall Terrace, a private road patrolled and managed by the Crown Estates Paving Commission.

The property was previously in use by the Royal College of Ophthalmologists (RCO) as offices who subsequently vacated the building prior to works commencing on site in line with the approved applications (Refs 12/02477/FULL and 12/02478/LBC).

The property is situated within the Regents Park Conservation Area and is Grade I statutorily listed.

**Relevant Planning History**

A summary of relevant planning history can be found in the table below:

Reference	Description	Decision	Date
16/09720/FULL 16/09721/LBC	Internal refurbishment including lowering of the lower ground floor level, use of the roof as a terrace and installation of four condensers units at roof level.	Pending	Received 12 Oct 2016
12/02477/FULL	Use as a single family dwelling house (Class C3) with associated external alterations, including creation of crossover and integral garage to rear in Cornwall Terrace Mews'	Granted	23 May 2012
12/02478/LBC	Internal and external alterations, including creation of crossover and integral garage to rear in Cornwall Terrace Mews in connection with use of offices (Class B1) as a single family dwelling house (Class C3)	Granted	23 May 2012

Subsequent to the above permissions, the Applicant submitted a Planning and Listed Building application on 12 October 2016 for internal works to the property, including the lowering of the lower ground floor level, use of the roof as a terrace and for the addition of condenser units at roof level. This application builds upon the previously approved applications (Refs. 12/02477/FULL and 12/02478/LBC) on the assumption that they have been implemented.

The Case Officer assigned to this application (Avani Raven) has relayed to the Applicant that it has not been confirmed that the previous applications (Refs 12/02477/FULL and 12/02478/LBC) have been implemented and as such a decision on the pending application cannot be made until the lawful use of the building as residential has been established. Under the recommendation of the Case Officer, the Applicant now submits this application to obtain a Lawful Development Certificate.

**Planning Considerations**

**Planning Permission Ref. 12/02477/FULL**

Section 191 of the Town and Country Planning Act 1990 relates to Certificates of Lawfulness of Existing Use or Development. In essence, there are two actions which are required to implement a planning permission:

- a) Discharge of all conditions precedent
- b) Carrying out of a 'material operation' as defined by the Act

In this case there are no conditions precedent to application ref. 12/02477/FULL.

Section 56 of the Act defines the following as material operations:

- a) Any work of construction in the course of erection of a building;
- b) Any works of demolition of the building;
- c) The digging of the trench which is to contain the foundations, or part of foundations of any building;
- d) The laying of any underground main pipes for the foundations or part of the foundations, or any such trench mentioned in paragraph c);
- e) Any operation in the course of layout or construction of a road or part of a road;
- f) Any change of use in the land which constitutes material development.

Implementation is taken to be the first day on which a material start is made.

#### Evidence in Support of Application

The following evidence has been collated in which to demonstrate that sufficient works have been carried out to implement the planning application. If the original copies are required they can be provided on request. Evidence previously provided to the Council on 18 May 2015 are highlighted in bold for clarity.

- Signed Affidavit dated 16 Dec 2016 (Martin John Lyres on behalf of Dawnbuild)
- Evidence of Implementation Document:
  - **Covering letter to Westminster City Council dated 18 May 2015 as prepared by Charlie R Bliss of BB Partnership Ltd confirming that works had commenced on site and enclosing photographs of works to date plus evidence of building control commencement and Crown Estate consents;**
  - Note confirming the above letter and details of commencement were received on 18 May 2016 by Westminster City Council;
  - **Crown Estate Paving Commission Consent for proposed works to crossover dated 14<sup>th</sup> April 2015 and 16 April 2015;**
  - Email correspondence from Dawn Build Ltd providing costs of building crossover dated 14 April 2015, 17 April 2015 and 20 April 2015;
  - Invoice from Dawn Build on 28<sup>th</sup> June 2015 for works to crossover and internal strip out;
  - Quotation from Fineline Construction dated 17 April 2015 for works to crossover;
  - Quotation from Spadeoak dated 8 April 2015;
  - Invoice from Spadeoak dated 18 May 2015;
  - Specification for crossover as provided by Spadeoak;
  - Correspondance with Spadeoak regarding levels dated 14 April 2015;
  - Strip out and demolition method statement for third floor internal works as prepared by Dawn Build Ltd dated 20 March 2015;
  - Email from Head Project Group (Building Control) dated 12 May 2015 confirming Initial Notice has been served;
  - Copies of the Planning and Listed Building Decision Notices;
  - **Photographic evidence as of 18 May 2015 of crossover works and internal demolition.**

#### **Crossover Works**

Applications Ref. 12/02477/FULL and 12/02478/LBC granted permission for a number of works including 'the creation of a crossover' to the front of the existing property.

Based upon point (a) and (e) of S56 TCPA 1990, a material operation to implement a consent includes any construction in the course of erection of a building and any operation in the course of layout or construction of a road or part of a road. As such, the development of the approved crossover can be regarded as a material operation sufficient to implement the approved applications.

A number of documents have been provided as evidence to demonstrate that the crossover works had been carried out prior to 22 May 2015:

- *Signed Affidavit* – A signed affidavit by Martin John Lyes, on behalf of the builder Dawnbuild Ltd who carried out the crossover works has been provided. This confirms that Dawnbuild provided a costing estimate in April 2015 to carry out internal demolition works and the formation of a new crossover. The affidavit continues to provide a schedule of works which commenced from the period of 11<sup>th</sup> May 2015 until 22<sup>nd</sup> May 2015. This confirms that the crossover works were completed in full by 22<sup>nd</sup> May 2015.
- *BB Partnership Ltd Covering Letter, building control commencement of works notice, Crown Estates Consents and photographic evidence (as provided on 18<sup>th</sup> May 2015 to Westminster City Council)*– A covering letter from Charles R Bliss dated 18<sup>th</sup> May 2015 to Westminster City Council confirming that works had commenced on site along with the relevant Crown Estate Paving Commission Consents for the crossover dated 14<sup>th</sup> April 2015 and 16<sup>th</sup> April 2015, Building Control Notice dated 12 May 2015 and photographic evidence (contained within the Implementation Document forming part of this application). Evidence of a note from Westminster City Council confirms that this document was received prior to the requirement implementation date on 18 May 2015.
- *Email correspondence and invoice details for crossover works* – Including quotes from Dawnbuild for the construction of the crossover (dated 20 April 2015) and Spadeoak quote for surfacing (08 April 2015). This is in addition to the invoice issued on 28 June 2015 by Dawnbuild post-completion of the works.

The above evidence demonstrates that works had commenced on the crossover on 14 May 2015 and that these works were carried out in full by 22 May 2015. The Applicant informed the Council of the works on 18 May 2015 (which was received by the Council on the same day). The accompanying invoices, in particular that of the 28 June 2015, and photographic evidence demonstrates supplied on 18 May 2015 demonstrates that the works had commenced prior to the three year deadline of 22 May 2015.

### **Summary**

The body of evidence submitted including statutory declarations, method statements, invoices and photographs demonstrates that material operations on site in line with the approved drawings had been carried out within the three year deadline of 22 May 2015. As such, the approved applications Ref. 12/02477/FULL and 12/02478/LBC have both been implemented and as such, the use of the property is therefore lawful self-contained residential accommodation in accordance with Section 191 of the Town and Country Planning Act 1990.

Yours faithfully

A handwritten signature in black ink that reads "Savills". The signature is written in a cursive, flowing style.

Charlotte Orrell  
Savills