

LDC Report	25/07/2018
Officer	Application Number
Nora-Andreea Constantinescu	2018/2463/P
Application Address	Recommendation
118-132 New Oxford Street London WC1A 1HD	Certificate of Lawfulness (Existing) Granted
1st Signature	2nd Signature (if refusal)
Proposal	
Change of use from shop in retail use (Class A1) to financial and professional services (Class A2) (Retrospective).	
Assessment	
<p>The application site is located on the northern side of New Oxford Street, at the junction with Tottenham Court Road, opposite the Tottenham Court Road Station. The application building is Grade II listed and the site lies within Bloomsbury Conservation Area.</p> <p>The application seeks to demonstrate that the premises been operating as a financial and provisional service (Class A2) since 21 of May 2014, prior to the Article 4 Directions came into force on 1 June 2018, which removes permitted development rights for change of use from retail (A1) to financial and professional services (A2).</p> <p>The applicant is required to demonstrate, on balance of probability that the change of use from the retail (A1) to financial and professional services (A2) took place lawfully under permitted development rights of Class D, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> Operational activity of the bank to include transactions on 23 of May 2018 and customer feedback Photos to show the bank opened on 21 of May 2018 Refurbishment Security checklists completed on 11 May 2018 Bank Manager sign off checklist dated 16 May 2018 Handover certificate dated 11 May 2018 Supporting letter from agent dated 25 May 2018 Halifax Bank Twitter page to include tweets from the Bank opening on 21 May 2018 	

The applicant has also submitted the following plans:

- A site location plan outlining the application site

Council's Evidence

Relevant planning history at the application site:

2017/4925/P - Alterations to existing shopfront comprising installation of glazed entrance and frontage, 1 x ATM to New Oxford Street elevation and 3 x CCTV cameras. – Granted 01/12/2017
2017/4927/A - Display of 4 x internally illuminated fascia signs and 1 x internally illuminated projecting sign to shopfront.- **Granted 01/12/2017**

2017/6868/P - Amendment to planning permission 2017/4925/P dated 01/12/2017 for 'Alterations to existing shopfront comprising installation of glazed entrance and frontage, 1 x ATM to New Oxford Street elevation and 3 x CCTV cameras' to allow relocation of ATM on New Oxford Street and installation of polycarbonate roller shutters to main entrance. – **Granted 19/02/2018**

2017/6869/P - Alterations to existing shopfront comprising installation of glazed entrance and frontage, roller shutters to main entrance, 2x ATMs to Tottenham Court Road Elevation, 1 x ATM to New Oxford Street elevation and 3 x CCTV cameras. – **Granted 06/04/2018**

2017/6870/L - External alterations comprising installation of replacement glazed entrance and shopfront including 3no. ATMs and 3no. CCTV cameras, roller shutters to main entrance, fascia and projecting sign. Internal alterations at basement, ground and first floor including removal of existing shop partitions and escalators, installation of new stairs, lift, insertion of new partitions to form offices, toilets and back of house areas, new floor, wall and ceiling finishes and installation of new atrium opening at first floor level (Revised details to approval 2017/4926/L). – **Granted 06/04/2018**

2018/0261/A - Temporary display of non-illuminated vinyl signs on hoarding boards at ground floor level measuring approximately 3m in height by 57m in length on New Oxford Street, Tottenham Court Road and Bainbridge Street for a period of 8 weeks from 26 February 2018 until 23 April 2018. – **Granted 22/02/2018**

A site visit to the premises was undertaken on the 3 August 2018. The officer is satisfied that the bank was open and operating satisfactory.

Assessment

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.

The planning history shows the premises being refurbished in order to accommodate the financial use as a bank and the visit established that these have been implemented. The Council's evidence does not contradict or undermine the applicant's version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the premises have been lawfully operating as a financial and professional service since 21 May 2018 under Class D, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, prior to the implementation of Article 4 Directions which restricts permitted development right of change of use from A1 to A2.

Recommendation: Certificate of Lawfulness (Existing) Granted