

7th August 2018
Our Ref: 18.5134

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Dear Alyce,

RE: APPLICATION FOR CERTIFICATE OF LAWFUL EXISTING USE OR DEVELOPMENT (CLEUD) IN RELATION TO NO 121-123 SHAFTSBURY AVENUE, LONDON WC2H 8AD

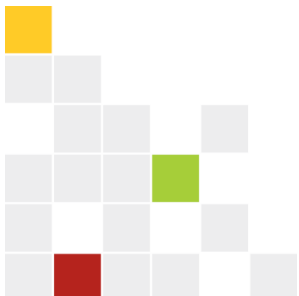
Please find enclosed the following items in support of the above application;

- Completed application forms;
- Site Location Plan;
- Existing and proposed drawings of internal configuration of No 121-123 Shaftsbury Avenue;
- Planning fee of £462.

This submission follows the Pre-Application advice received from the Council in relation to No 121 Shaftsbury Avenue date 5th June 2018, ref 2018/1047/PRE. That advice related to external alterations to the premises, including shopfront alterations, and the provision of signage. The advice provided in relation to those items was positive, and included the following advisory note in the final paragraph of page 1;

“Council also notes that it appears a change of use will be occurring at 123 Shaftesbury Avenue from café (Class A3) to retail (Class A1). If this were to occur Council would recommend submitting a Lawful Development Certificate under Schedule 2, Part 3, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.”

Accordingly, we have been appointed by the applicant – Nisbets PLC – to prepare and submit this application.



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Proposals

This application seeks to confirm that the following works and change of use at No 123 Shaftsbury Avenue are lawful development, and so do not require planning permission;

- Change of Use from A3 Use Class (Restaurant) to A1 (Retail) of ground floor commercial premises of No 123 Shaftsbury Avenue
- Provision of opening between ground floor premises of No 121 and No 123 Shaftsbury Avenue

Assessment - Change of use

Part 3 - Changes of use, Class A – “*restaurants, cafes, takeaways or pubs to retail*” of Schedule 2 of the GPDO 2015 (As amended) states that the following is permitted development – and so does not require planning permission;

A. Development consisting of a change of use of a building from a use falling within Class A3 (restaurants and cafes), A4 (drinking establishments) or A5 (hot food takeaways) of the Schedule to the Use Classes Order, to a use falling within Class A1 (shops) or Class A2 (financial and professional services) of that Schedule.

Various conditions apply to the above, set out in paragraphs A.1, A.2 and A.3 of the legislation. In summary these prohibit the above permitted rights to specified buildings, public houses and assets of community value. None of the conditions provided by the legislation apply to this scenario.

The change of use of No 123 from A3 Use Class to A1 Use Class is therefore permitted development.

Internal opening

Following the change of use of No 123 to A1 retail use, an opening between No 121 and No 123 was made between the premises. At this time, both units were (and still are) in A1 retail use.

Paragraph 55(1) of the Town and Country Planning Act 1990 provides the definition of development. Paragraph 55(2) of the legislation provides specific exemptions from the definition, which includes part 2) a) i) which is repeated below;

2) the following operations or uses of land shall not be taken for the purposes of this act to involve development of land-

a) the carrying out for maintenance, improvement or other alteration of any building works which-

i) affect only the interior of the building, or (continues)

The proposed opening thereby constitutes works fully described by part 2) a) i) above, and so they do not constitute development. Therefore planning permission is not required.

We thereby conclude that the change of use of the ground floor premises of No 123 Shaftsbury Avenue from A3 to A1 Use, followed by the provision of an internal opening between it and No 121 Shaftsbury Avenue, (both units of A1 Use Class) does not require planning permission. As such, we respectfully as that the submitted CLEUD is granted by the Council.

I trust that you now have all that you require to validate this application, but please do not hesitate in contacting me should you have any queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AWilkinson', followed by a long horizontal line extending to the right.

Adam Wilkinson BSc MRTPI
Associate Director

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