

LDC Report	
Officer	Application Number
David Fowler	2018/4678/P
Application Address	Recommendation
Former 32-33 Liddell Road London NW6 2EW	Granted
1st Signature	2nd Signature (if refusal)
Proposal	
Commencement of works in relation to planning permission ref: 2014/7651/P dated 31/03/2015 amended by application reference 2017/6480/P dated 16/01/2018 for Phase 2 of comprehensive, mixed-use redevelopment involving the construction of three new buildings: Block A (5 storeys) to provide 3,700 sqm (GIA) of mixed commercial use (Class B1), Block B (11 storeys) and Block C (5 storeys) to provide 106 mixed tenure residential units (Class C3) and associated public realm landscaping works.	
Assessment	
<p>1. <u>Application Site</u></p> <p>1.1. The application site is bounded to the east by a site which accommodates Network Rail's signal box, which is accessed off Maygrove Road. The site is bounded to the north-east by Kingsgate Primary School (which was Phase 1 of the Former Liddell Road development). It is bounded to the south by Maygrove Road, with a predominantly three-storey terrace of houses on the southern side of this street, and a three-storey block of commercial units to the south-west at 75-81 Maygrove Road. The application site is bounded to the west by Maygrove Peace Park (including a multi-use games area – aka MUGA), which is designated as Open Space, and 73a Maygrove Road which is a three-storey building in residential use. The site is bounded to the north by Thameslink railway lines which are designated as a Green Corridor/Habitat Corridor. On the north side, of the railway is a pedestrian footpath, with the rear of properties fronting Sumatra Road beyond.</p> <p>2. <u>Proposal</u></p> <p>2.1. The applicant seeks to confirm that the development permitted has been implemented on site in line with the attached conditions and the definitions of development outlined within the Town and Country Planning Act 1990. They therefore seek to confirm that the permission remains extant and that the carrying out of the balance of the operational works permitted would therefore not require further express consent. The relevant permission is as follows:</p> <ul style="list-style-type: none"> • 2014/7651/P dated 31/03/2015 for 'Phase 2 of comprehensive, mixed-use redevelopment involving the construction of three new buildings: Block A (5 storeys) to provide 3,700sqm (GIA) of mixed commercial use (Class B1), Block B (11 storeys) and Block C (5 storeys) to provide 106 	

mixed tenure residential units (Class C3) and associated public realm landscaping works’.

2.2. The application varying the original permission is also relevant:

- 2017/6480/P dated 16/01/2018 ‘Variation of condition 36 to allow for separate submission of Demolition Management Plan (DMP) and Construction Management Plan (CMP) and amending wording of 28 ‘pre-commencement’ conditions to allow for site preparation and demolition works to take place for Phase 2 of comprehensive, mixed-use redevelopment involving the construction of three new buildings approved under planning permission 2014/7651/P dated 31/03/2015 (Section 96a application)’.

2.3. To satisfy the Town and Country Planning Act 1990, the applicant is required to demonstrate that, on the balance of probability, the permission reference 2014/7651/P has been implemented in line with any pre-commencement condition, prior to three years after the date of the decision (i.e. before 31/03/2018).

3. Applicant’s evidence

3.1. The applicant amended the original permission to allow for the works to be implemented to allow for site preparation and demolition works to take place for the Phase 2 application.

3.2. The applicant then broke up the concrete slab across the site, which officers consider constitutes development as defined by the Town and Country Planning Act 1990.

3.3. The applicant sent photos to the case officer on the 28th of February 2018, showing that the slab had been broken up. The case officer responded by email at that time agreeing that he considered that the planning permission had been implemented. However this was purely informal advice that does not prejudice any future decisions. The current application seeks official confirmation that permission reference 2014/7651/P has been implemented.

3.4. For evidence, the applicant has submitted the email with the photos that was originally sent to the case officer to support this application.

4. Discussion

4.1. 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.

4.2. The evidence provided by the applicant demonstrates the breaking of the slab prior to the expiration of the permission and therefore, implementing it.

4.3. The evidence submitted corroborates the suggestion that the above works were implemented prior to the expiration date of the original permission. As there is no evidence which might contradict this statement of events, it is considered that, on the balance of probability, the works described were completed on site prior to each of the three permissions expiring.

5. Conclusion

5.1. It is considered that the evidence submitted is adequate to demonstrate that, on the balance of probability that the works completed on site did constitute development and were begun within three years of the date of the original permission.

5.2. It is therefore confirmed that this development commenced in line with the attached conditions and the definitions of development outlined within the Town and Country Planning Act 1990 and therefore the permission remains extant.

6. Recommendation

6.1. Approve certificate of lawfulness