

LDC (Existing) Report		Application number	2020/3268/P
Officer		Expiry date	
Mark Chan		17/09/2020	
Application Address		Authorised Officer Signature	
Panther House, 38 Mount Pleasant The Brain Yard, 156-164 Grays Inn Road London WC1X 0AN			
Conservation Area		Article 4	
Hatton Garden Conservation Area		Article 4 Direction Basement development	
Proposal			
Implementation of planning permission ref: 2015/6955/P dated 01/11/2017 (as amended by 2020/1368/P dated 14/04/2020) for 'Redevelopment of the site following partial demolition of Panther House and Brain Yard buildings, partial demolition of 160-164 Gray's Inn Road and demolition of 156 Gray's Inn Road. Proposals would result in part 4 storey, part 7 storey (plus plant and basement) buildings at Panther House and Brain Yard for predominantly employment (B1) uses (including 1450sq.m of subsidised workspaces) and a new 7 storey (plus plant and basement) building at 156-164 Gray's Inn Road behind the retained facade of 160-164 Gray's Inn Road to provide flexible retail/restaurant (A1/3) uses at ground and basement levels with 15 self-contained residential units (C3) (including 3 Intermediate Rent flats) at the upper levels. Associated landscaping, plant and public realm works'.			
Recommendation:		Grant Certificate of Lawfulness	

The approved scheme is for the redevelopment of the site, following partial demolition of Panther House and Brain Yard buildings, partial demolition of 160-164 Gray's Inn Road and demolition of 156 Gray's Inn Road, to result in part 4 storey, part 7 storey (plus plant and basement) buildings at Panther House and Brain Yard for predominantly employment uses and a new 7 storey (plus plant and basement) building at 156-164 Gray's Inn Road to provide flexible retail/restaurant uses with 15 self-contained residential units above.

Planning permission ref: 2015/6955/P was granted on 01/11/2017 and amended by 2020/1368/P dated 14/04/2020. The permission expires on 1/11/2020.

This Certificate of lawful development seeks to demonstrate that the installation of 1x 300/340mm diameter permanent pile would constitute a material operation as defined in Section 56 of the Town and Country Planning Act 1990 as amended and that works to implement permission 2015/6955/P have been undertaken.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- A site location plan which identifies the 'red line' of the extant consent site (2015/6955/P);

- LB Camden Planning Permission Ref 2015/6955/P Implementation Works, Project File Note, June 2020, which describes the works and provides evidence of the works being carried out and completed by Panther House Development Limited; and
- A cover letter by the Applicant's Agent.

Council's Evidence

Under planning permission ref: 2015/6955/P dated 01/11/2017 (as amended by 2020/1368/P dated 14/04/2020), condition 16 states the following:

No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of policies CC1, CC2 and CC3 of the Camden Local Plan 2017.

Condition 16 has been partially discharged and the piling method statement and methodology of the 300/340mm diameter bearing pile in question has been submitted and approved in writing by the local planning authority under application ref: 2020/1631/P dated 27/05/2020. There are no further conditions which require discharge prior to the commencement of installation of the proposed pile.

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 application was submitted on 23/07/2020 accompanied by applicant's evidence listed above.

The submission outlines that implementation works at the site commenced on 22/06/2020 and concluded on 25/06/2020 and comprised the installation of 1x 300/340mm diameter permanent pile, which would form part of the consented development's foundations and basement. Evidence of these works were provided in the form of piling record sheets, pile integrity test report and photographs of the site following the completion of the works, all of which were included in the Implementation Works Project File Note.

Section 56 (2) of the Town and Country Planning Act 1990 outlines that:

“For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out”.

Section 56 (4) further clarifies that in subsection (2) “material operation means—

- (a) any work of construction in the course of the erection of a building;
- (aa) any work of demolition of a building;
- (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
- (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
- (d) any operation in the course of laying out or constructing a road or part of a road;
- (e) any change in the use of any land which constitutes material development.”

The photographs and evidence show the installation of a pile which is part of the foundations of the approved buildings, and therefore constitutes a material operation as defined in The Town and Country Planning Act 1990 as amended.

The Council considers that the works carried out in June 2020 constitute a material start of implementing the planning permission 2015/6955/P and that they have commenced within the 3 year period of the permission, ie. before it expires on 1st November 2020.

Recommendation: Grant Certificate of Lawfulness