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Via Email Only

23rd February 2021

Dear Jaspreet Chana

CERTIFICATE OF LAWFULNESS OF PROPOSED USE – PROPOSED USE AND AMALGAMATION OF THE BASEMENT AND GROUND FLOORS OF 29-33 CHALK FARM ROAD FROM THREE RETAIL UNITS (USE CLASS E) TO A SINGLE CLASS E UNIT.

29-33 CHALK FARM ROAD, LONDON, NW1 8AJ

Please accept this covering letter as an accompaniment to a lawful development certificate application to establish whether the proposed use and amalgamation of the basement and ground floors of 29-33 Chalk Farm Road from three retail units (Use Class E) to a single Class E unit is lawful. The application is submitted under Section 192 of the Town and Country Planning Act 1990 (as amended).

Existing use

The application relates to three separate units on the existing basement and ground floors of 29-33 Chalk Farm Road.

The units the subject of this application were granted permission for retail use under planning permission **(2012/0974/P)** for the comprehensive redevelopment of the site in 2012 which included a basement plus four storey mixed use building, comprising 6 x retail units at basement and ground floor level and 40 student units at mezzanine, first, second and third floors. The permission was later amended by several minor material amendment applications (2012/6776/P), (2015/5929/P), and (2015/6039/P) but with the units remaining for retail use.

The existing lawful use of the units are therefore considered retail (Use Class E).

Proposed use

While an end user is currently unidentified, this certificate application seeks confirmation that the proposed use and amalgamation of the existing three retail units (Use Class E) to a single Class E Unit is lawful.

Lawfulness of proposed use

Section 55 of the Town and Country Planning Act 1990 as amended (The Act) defines the meaning of 'development' as the carrying out of building, engineering, mining, or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Section 55(2) does however set out the operations or uses of land which shall not be taken for the purposes of the Act to involve development of the land. Section 55(2)(f) states that development shall not include the following – *'in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provision of the order, of any part of the buildings or the other land, for any other purposes of the same class'*.

The existing use of the basement and ground floor units of 29-33 Chalk Farm Road is within Use Class E and the proposed use is also within Use Class E. Consequently, the proposal results in no material change of use of the building or land. The proposal therefore does not fall within the meaning of development and as such planning permission is not required.

Amalgamation of Units

Turning to the proposed works to form an internal opening and amalgamate the ground floor units, these works are not considered to constitute development.

As outlined above, the Act provides specific exemptions from the definition of development, and Paragraph 55 (2) states – *'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 works to amalgamate the units thereby constitutes works fully described by part 2) a) i) above, and so therefore does not constitute development. Therefore, planning permission is not required.

Summary and conclusion

The proposed use and amalgamation of the basement and ground floors of 29-33 Chalk Farm Road from three retail units (Use Class E) to a single Class E unit is lawful and does not constitute a material change of use of the building or land or fall within the meaning of development.

A Lawful Development Certificate is therefore requested to confirm that the proposal is lawful and would not require planning permission.

I trust the commentary above is clear but please do not hesitate to contact me if you have any queries or if I can offer any further points of clarification.

Yours sincerely

Ian Pickup
Associate
SM Planning