

CBRE

David Fowler
London Borough of Camden
Town Hall
5 Pancras Square

25th June 2021

Submitted online via the Planning Portal – Ref: PP-09835944

Dear David,

SECTION 191 OF THE TOWN AND COUNTRY PLANNING ACT

APPLICATION FOR A CERTIFICATE OF LAWFUL EXISTING USE OR DEVELOPMENT (CLEUD)

5-17 HAVERSTOCK HILL, LONDON, NW3 2BP

On behalf of the applicant, OD Camden Hotel Ltd, please find enclosed an application for a Certificate of Lawful Existing Use or Development (CLEUD), to confirm that works comprising a material operation within Section 56(4) of the Town and Country Planning Act 1990 (as amended) have been undertaken.

The application description is as follows:

Confirmation that the planning permission dated 02 October 2018 (Ref 2016/3975/P) for 'Demolition of existing building and erection of a part-six, part-seven storey development comprising 77 residential units (8 x studio, 18 x 1-Bed, 32 x 2-Bed and 19 x 3-Bed units) (Use Class C3) and retail (Use Class A1-A5) use at ground floor with associated cycle parking, amenity space, refuse and recycling store and associated works.' was lawfully implemented by the carrying out of material operations prior to the expiry of the permission.

Application Documentation

This application (Planning Portal Ref PP-09835944) is accompanied by the following:

- Location Plan (Ref 13491-AP-LXX-03-001) – As approved under the 02 October 2018 planning permission
- Existing Site Plan (Ref 13491-AP-LXX-03-002) – As approved under the 02 October 2018 planning permission



- Proposed Ground Floor Layout Plan (Ref 1349-AP-L00-100) - As approved under the 02 October 2018 planning permission (this shows that the Single Storey Garage Building is proposed to be demolished and cleared as part of the development approved by the Planning Permission).
- Before and after Photographs (Haverstock Hill – Implementation Evidence – Demolition of Single Storey Garage) prepared by O’Keefe (the Contractors) evidencing the demolition of the single storey garage from 25th May 2021 until 1st June 2021 inclusive
- Demolition Works – Garage: Outline Structural Specification (ARUP Drawing Ref HH-ARP-SKE-S-012)
- Cover Email dated 2nd June 2021 by Gardiner & Theobald confirming the “works have been properly executed”.
- Interim Valuation Recommendation dated 2nd June 2021 by Gardiner & Theobald

The planning application fee [REDACTED] will be paid via online payment. This has been calculated on the basis of the application fee which would be applicable if these implementation works were the subject of a planning application. This is in line with Part 11(3)(a) of The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended)

Background

Planning Permission was granted on 2 October 2018 (ref 2016/3975/P) for the development of the land and buildings at 5-17 Haverstock Hill NW3 2BP (“the Property”):

“Demolition of existing building and erection of a part-six, part-seven storey development comprising 77 residential units (8 x studio, 18 x 1-Bed, 32 x 2-Bed and 19 x 3-Bed units) (Use Class C3) and retail (Use Class A1-A5) use at ground floor with associated cycle parking, amenity space, refuse and recycling store and associated works”

The drawings approved by the Planning Permission and listed at Condition 2 show the demolition of all existing buildings and structures at the Property.

The Law

Section 56(2) of the Town and Country Planning Act 1990 (“the Act”) states that 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) of the Act states:

“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;

Works undertaken to implement the Planning Permission

As shown on the above referenced existing site plan as approved, within the application site there is a small standalone garage building abutting the western boundary of the site. The above referenced approved ground floor layout plan shows this garage is to be demolished and cleared as part of the development approved by the Planning Permission.

The above referenced Demolition Works – Garage: Outline Structural Specification drawing by Arup sets out the works undertaken in order to implement the Planning Permission (“the Proposed Works”). In summary these works involve the demolition of the single storey garage building with the retention of the boundary wall.

As shown from the enclosed before and after photographs, these works have now been undertaken. The demolition of this building is provided for by the drawings approved by the Planning Permission.

These works represent “any work of demolition of a building” (as defined by Section 56(4)(aa) and therefore constitute a material operation for the purpose of Section 56(2) of the Act.

For the purpose of Condition 1 attached to the Planning Permission works have therefore begun before the expiry of three years from the date of the permission.

We can confirm that:

- i. All pre-commencement conditions required to be discharged prior such demolition works being undertaken were discharged prior to the works being undertaken;
- ii. All planning obligations contained in the Section 106 Agreement dated 2 October 2018 required to be discharged prior to such demolition works were discharged prior to the works being undertaken; and
- iii. All necessary CIL forms were filed in accordance with the requirements of the Community Infrastructure Levy Regulations 2010 (as amended). The CIL payment is due to be made at the end of June 2021. This is within the requisite timeframe for payment in accordance with the CIL regulations

For completeness we summarise these matters below.

Pre-Commencement Conditions

All relevant pre-commencement conditions have been discharged by London Borough of Camden as relevant to the works that were subsequently undertaken to lawfully implement the planning permission. These can be summarised as follows:

| Condition | Date Approved |
|--|---------------|
| Ref: 2020/4826/P Condition 5 - Suitably Qualified Chartered Engineer The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration | 23 April 2021 |

| Condition | Date Approved |
|--|---------------|
| <p>to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the Council prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.</p> | |
| <p>Ref: 2020/4826/P Condition 8 - Landscaping - Planting/Replacement Planting Full details of all hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority before the development commences.</p> <p>The works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner.</p> <p>Any trees or areas of planting which within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.</p> | 23 April 2021 |
| <p>Ref: 2020/4662/P Condition 11 - Ground Investigation At least 28 days before development commences (other than site clearance & preparation, relocation of services, utilities and public infrastructure, but prior to removal of any soil from the site):</p> <ul style="list-style-type: none"> a) written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas shall be submitted to and approved by the local planning authority in writing; and b) following the approval detailed in paragraph (a), an investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures shall be submitted to and approved by the local planning authority in writing. <p>The remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved by the local planning authority in writing prior to occupation.</p> | 31 March 2021 |
| <p>Ref: 2020/4983/P Condition 17 - Photovoltaic Cells Prior to commencement, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable</p> | 07 April 2021 |

| Condition | Date Approved |
|--|---------------|
| <p>energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.</p> | |
| <p>Ref: 2020/4983/P Condition 18 – Rainwater Recycling Prior to commencement of any development other than site clearance & preparation details of the feasibility of rainwater recycling proposals should be submitted to the local planning authority and approved in writing. The development shall thereafter be constructed in accordance with the approved details.</p> | 07 April 2021 |
| <p>Ref: 2020/5202/P Condition 20 – Air Quality Monitoring Air quality monitoring should be implemented on site. No development shall take place until full details of the air quality monitors have been submitted to and approved by the local planning authority in writing. Such details shall include the location, number and specification of the monitors, including evidence of the fact that they have been installed in line with guidance outlined in the GLA’s Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance and have been in place for 3 months prior to the proposed implementation date. The monitors shall be retained and maintained on site for the duration of the development in accordance with the details thus approved.</p> | 14 May 2021 |
| <p>Ref: 2020/4984/P Condition 21 – SUDS Prior to commencement of the development, full details of the sustainable drainage system shall be submitted to and approved in writing by the local planning authority. Such a system should be designed to accommodate all storms up to and including a 1:100 year storm with a 30% provision for climate change, such that flooding does not occur in any part of a building or in any utility plant susceptible to water, and to achieve 50% reduction in run off (targeting a maximum of 14 l/s run-off in all storm events up to and including the 1 in 100 year 6 hour storm).</p> <p>The system shall include: blue/ green roofs (providing 23m³ of storage) and an attenuation tank (providing 47m³ of storage) and shall thereafter be retained and maintained in accordance with the approved maintenance plan.</p> | 18 May 2021 |
| <p>Ref: 2020/5204/P Condition 23 – Detailed Design and Method Statement The development hereby permitted shall not be <u>commenced</u> until detailed design and method statements (in consultation with London Underground) for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent), have been submitted to and approved in writing by the local planning authority which:</p> <ul style="list-style-type: none"> - provide details on all structures - accommodate the location of the existing London Underground - structures and tunnels | 07 April 2021 |

| Condition | Date Approved |
|---|---------------|
| <ul style="list-style-type: none"> - accommodate ground movement arising from the construction thereof - and mitigate the effects of noise and vibration arising from the adjoining operations within the structures and tunnels. <p>The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.</p> | |
| <p>Ref: 2020/4983/P Condition 27 – Overheating Assessment Prior to commencement of development, full details of the overheating assessment should be provided. The applicant should demonstrate that the Mayor’s cooling hierarchy has been followed and that active cooling is not proposed unless it can be demonstrated it is required and that all other measures have been considered first. Where active cooling is required, details demonstrating the efficiency of the system should be provided to the Council.</p> | 07 April 2021 |

Whilst there are other conditions requiring agreement, these are not relevant to the commencement of development as they require compliance or the submission of further information prior to the commencement of a relevant part of the development.

Planning Obligations

The relevant planning permission was approved with an associated S106 Agreement. This agreement contains a number of obligations that must be undertaken or complied with prior to the commencement of work on site.

The Section 106 Agreement defines two phases – a Demolition Phase and the Construction Phase. For the purpose of the S106 Agreement only works of Demolition are excluded from the definition of “Implementation” and the Construction Phase. This is intention and designed to allow works of demolition to be undertaken pursuant to the Planning Permission, in advance of the discharge of a large number of the obligations within the S106 Agreement.

All necessary obligations required to be discharged prior to the Demolition Phase were discharged as set out below:

| Clause | Obligation | Approval |
|--------|--|--|
| 4.5.1 | Construction Management Plan Implementation Support Contribution | Discharged and notice received (07 May 2021) |
| 4.5.1 | Construction Management Plan | Discharged Conditionally (26 April 2021) |

| Clause | Obligation | Approval |
|--------|---|--|
| 4.6.1 | Employment and Training Plan to be submitted in Full. | Discharged and notice received (14 May 2021) |
| 4.8.1 | On or prior to the demolition date to pay the Council the Highways Contribution in full. | Discharged and notice received (07 May 2021) |
| 4.9 | <p>The owner shall in carrying out the works comprised in the Demolition Phase¹ and the Construction Phase² of the Development <u>work in partnership</u> with (i) the King's Cross Construction Centre; and (ii) take the following specific measures to ensure:</p> <ul style="list-style-type: none">a) Construction Industry Training Board benchmarks for local employment are met or exceeded when recruiting construction-related jobs;b) All contractors and sub-contractors provide information about all vacancies arising as a result of the Demolition Phase and the Construction Phase of the Development to the King's Cross Construction Centre;c) The King's Cross Construction Centre is notified of all vacancies, arising from the building contract for the Development for employees, self-employees, contractors and sub-contractors,d) Ensuring advertising of all construction vacancies exclusively through Kings Cross Construction Centre for a period of no less than one week before promoting more widely;e) That the King's Cross Construction Centre is supplied with a full labour programme for the Demolition Phase and Construction Phase (with six-monthly updates) demonstrating: (i) what skills and employment are needed through the Demolition Phase and Construction Phase, and (ii) measures to ensure that these needs are met as far as possible through the provision of local labour from residents of the London Borough of Camden; and, | Discharged and notice received. |

¹ Defined as the whole period between (1) the Demolition Date; and (2) the date of Implementation.

² Defined as the whole period between (1) the Implementation Date; and (2) the date of issue of the Certificate of Practical Completion.

| Clause | Obligation | Approval |
|--------|---|--|
| | f) From the Demolition Date, the Council is provided with a detailed six-monthly labour return for monitoring the employment and self-employment profile of all workers referred by the Kings Cross Construction Centre and employed during the Demolition Phase and the Construction Phase. | |
| 4.9.2 | Subject to Clause 4.9.8 (see below) the Owner shall ensure that at all times during the Demolition Phase and Construction Phase no less than 12 construction apprentices shall be employed at the Development always ensuring each apprentice shall be: - <ul style="list-style-type: none"> i. Recruited through the Kings Cross Construction Centre; ii. Employed for a period of not less than 52 weeks; iii. Paid at a rate not less than the national minimum wage rate for 21-24-year olds. All apprentice candidates ages 25 and above will be paid the national minimum wage. iv. The Construction Apprentice Support Contribution has been paid in full (based on each individual apprentice). | Discharged and notice received. |
| 4.9.3 | The Owner shall ensure that during the Demolition Phase and the Construction Phase an agreed number of work placements and/or work experience opportunities are provided at the Development of no less than 2 weeks each to be recruited through the Kings Cross Construction Centre. | Discharged and notice received. |
| 4.9.4 | Notwithstanding the provisions in clauses 4.9.2 and 4.9.3 of the Agreement during the Demolition Phase and the Construction Phase the Owner shall provide training opportunities on site for employees resident within the LB Camden and to provide a six-monthly statement setting out the details of candidates to be employed to Kings Cross Construction. | Discharged and notice received. |
| 4.9.6 | On or prior to the Demolition date to pay the Council the Construction Apprentice Support Contribution in full | Discharged and notice received (07 May 2021) |

| Clause | Obligation | Approval |
|--------|---|---|
| 4.10.1 | Prior to demolition to agree a programme during the construction of the Development to provide opportunities for local businesses to bid/tender for the provision of goods and service to the Development in accordance with the Council's Local Procurement Code. | Discharged and notice received. |
| 4.10.2 | On or prior to Demolition to meet with the Council's Economic Development Local Procurement Team (or any successor department) at least one month before tendering contracts to agree the specific steps that will be taken to give effect to the Local Procurement Code. | Discharged and notice received. |
| 5.1 | The Owner shall give written notice to the Council on or prior to the both the Demolition Date and Implementation Date specifying that Demolition or Implementation of the Planning Permission (as the case may be) has taken or is about to take place. | Michael Louth of O'Keefe submitted this on 07 January 2021. CBRE have followed up for written confirmation but statutory six-week period has elapsed. |

Community Infrastructure Levy (CIL)

The Applicant submitted a CIL Commencement Notice pursuant to the permission, declaring a commencement date for the development of 30th April 2021. The required CIL payment will be made within the requisite timeframe pursuant to this. Notwithstanding the date specified on this notice, please note that as described above, works to implement the planning permission actually commenced on 25th May 2021. It was not possible to implement the permission on the date initially envisaged when the commencement notice was issued on the basis the remaining pre commencement planning conditions and obligations were not discharged prior to that date.

Summary

We trust you have all the necessary information to register this application and issue a CLEUD. The body of evidence demonstrates that the works carried out amount to a material operation in relation to s.56(2)-(4) of the Town and Country Planning Act. The evidence and information provided clearly shows that the planning permission has been lawfully implemented prior to the expiry of the planning permission on 2nd October 2021 and on this basis a Certificate of Lawful Existing Development should be granted. However, if you have any queries or require anything further please contact me or my colleague Graham Timms [REDACTED] as soon as possible.

Yours sincerely,

[REDACTED]

WILL LINGARD
SENIOR DIRECTOR

