

Application ref: 2021/4385/P
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Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Use of the property for clinical medical services and medical teaching (formerly within the D1 use class).

Drawing Nos: Site Location Plan 18491-PA-001, 18039/A01.

Second Schedule:

126 Boundary Road
London
NW8 0RH

Reason for the Decision:

- 1 Use of the property for clinical medical services and medical teaching (formerly within the D1 use class) is considered lawful notwithstanding the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Informative:

- 1 In June 1958, planning permission was granted for the use of the property as a language school (ref: 8073/NW). This use continued until it ceased in around January 2018. At that time, the lawful use of the property remained as a language school which fell within the D1 use class.

A use is lawful if it is excluded from the definition of development under s.55. This includes material changes within the same Use Class which are excluded under s.55(2)(f).

In August 2019, planning permission was granted for extensions and alterations, and continued use of the property as a D1 use with additional floorspace - but this time as a medical clinic with clinical and teaching functions as shown on the approved plans (ref: 2019/0116/P). At that time, the clinical functions and medical teaching functions both fell within the D1 use class and so within the scope of the permission.

A use is lawful if permission has been granted for the change to that use, either expressly or by development order, and it remains in accordance with the terms of that permission. The permission, granted on 2 August 2019, can still be implemented until it expires at the end of 1 August 2022, and the applicant confirms that works commenced in September 2019 in any event.

Therefore, the use of the property as a medical facility with clinical and medical teaching functions were lawful at the date of the application and in line with the planning permission 2019/0116/P.

On 1 September 2020, amendment regulations 2020 No. 757 revoked use class D1, which had included medical services (Use class D1(a)) and education (Use class D1(c)). It provided for a new Use Class E which includes medical services (Use class E(e)) and F1 which includes education (Use class F1(a)). Any subsequent changes of use will be subject to the new use classes.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope
Chief Planning Officer

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.