

Planning
London Borough of Camden
5 Pancras Square
London
N1C 4AG

Dear Sir/Madam,

**FLAT 1, 3 ETON AVENUE, LONDON NW3 3EL
APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE (EXISTING)**

On behalf of the applicant, Mr. Tamas Hairman and Mrs Fatma Hairman, please find enclosed an application for an Existing Lawful Development Certificate (CLEUD) concerning the lawful implementation of development at Flat 1, 3 Eton Avenue NW3 3EL (the "site").

The development relates to planning permission granted on 25th January 2019 (ref. 2017/6275/P) for the following proposal:

"Extensions to ground floor flat including basement excavation with rear extension and roof terrace, replacement conservatory at ground floor level, and associated landscaping including erection of replacement garden shed".

Condition 1 attached to the consent requires development to be commenced no later than 25th January 2022, 3 years from the date the permission was granted. We submit this application to confirm that the permission has been lawfully implemented and provide the following accompanying information as evidence of this:

The supporting evidence submitted comprises the following numbered items:

1. 16no. site photographs of the works undertaken from 11th – 13th January 2022
2. Signed contract with Building Contractor (VinDec) dated 29th December 2021
3. Site Inspection Note from Building Control dated 21st January 2022

The application has been submitted on Planning Portal and the application fee of £462.00 and planning portal service fee of £28.00 has been paid online.

Site Context and Planning History

The site is located within the London Borough of Camden (LBC) and comprises the ground floor flat and associated gardens of a 3-storey residential building which is currently on the site. The building is unlisted but is located within the Eton Avenue sub-area of the Belsize Park Conservation Area.

On 25th January 2019 (ref. 2017/6275/P), planning permission was granted for the extensions of the ground floor flat comprising basement excavation with rear extension and roof terrace, replacement conservatory at ground floor level and associated landscaping including erection of replacement garden shed.

Six conditions were attached to the consent and included two pre-commencement conditions.

Condition 4 required full details of hard and soft landscaping to have been submitted and approved by LBC before any development took place on site. The condition was discharged on 13th October 2021 under application reference 2021/3360/P.

Condition 6 required tree protection measures to be installed prior to commencement of works and for working practices to be adopted in accordance with the approved arboricultural report (ref. FH-BB-Partnership-62-Eton-Avenue-London-2016). We can confirm that the tree protection measures have been installed on site.

Our ref: PP-11026770

A Section 106 Agreement was secured under the consent with certain obligations requiring completion before implementation. These obligations have all been discharged as set out below.

- Clauses 4.2.2 & 4.2.4 require the submission and approval of the Level Plans prior to the implementation date. Discharge notice received on 3rd August 2021.
- Clause 4.1(i) requires payment of the Construction Management Plan Implementation Support. Payment was made on 21st December 2021.
- Clause 4.1 (ii) requires the submission and approval of a Construction Management Plan prior to implementation. Discharge notice received on 4th January 2022.
- Clauses 4.2.1 & 4.2.3 require payment of the Highways Contribution. Payment was made on 21st December 2021.

All the pre-commencement planning conditions and implementation planning obligations attached to the consent have been discharged.

The development is exempt from CIL following the Council's approval for Self-Build Residential Exemption on 24th August 2021.

Legislation

As detailed within Section 56 of the Town and Country Planning Act 1990:

“(2) 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.

(4) In subsection (2) ‘material operation’ means:

- a) any work of construction in the course of the erection 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 an 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.”*

Proposed Implementation Works

Following the required discharge of planning conditions and obligations prior to commencement /implementation of development, the applicant subsequently commenced development on site.

These works undertaken comprise the digging of a 1.8m trench, the underpinning to the east side elevation and a new mass concrete foundation to 50mm below existing spread brick footings. A new manhole has also been installed to collect drainage from the new extension. Evidence of these works is set out in the following submitted documents:

- Signed contract between the Building Contractors and the Applicant for the works;
- 16no. Photographs of the works being carried out between 11th January – 13th January 2022; and
- A Site Inspection Note from Building Control dated 21st January 2022, confirming that the work is satisfactory with no comments following inspection on 14th January 2022 and 19th January 2022.

In assessing the above works completed, it is our view that the works undertaken constitute a ‘material operation’. On this basis, the works undertaken fall within s56(4)(b) and (c) of the 1990 Act which define ‘material operations’ as *“the digging of a trench which is to contain the foundations, or part of the foundations, of a building”* and *“the laying of an 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)”*.

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Conclusion

It is considered that implementation works for planning permission 2017/6275/P has successfully been undertaken in accordance with Section 56 of the Town and Country Planning Act 1990. There is no conflicting evidence to suggest the development has not been lawfully implemented and therefore a Certificate of Lawfulness should be approved.

We trust you have all the information required to register the application. If you would like to discuss the above matters further, please do not hesitate to contact myself or my colleague Natasha Coakley at this office (natasha.coakley@rpsgroup.com/ 020 7832 1392). We look forward to your acknowledgement of the application.

Yours sincerely,



Karen Jones

Senior Director

karen.jones@rpsgroup.com

for RPS Consulting Services Ltd