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| LDC (Proposed) Report | | Application number | 2021/5703/P |
| Officer | | Expiry date | |
| Fast Track JL | | 05/04/2022 | |
| Application Address | | Authorised Officer Signature | |
| 1-5 Kings Cross Bridge, 281 Pentonville Road and 368 Grays Inn Road London N1 9NW | | | |
| Conservation Area | | Article 4 | |
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| Proposal | | | |
| Use of the ground floor unit as a commercial, business and service use (Class E) | | | |
| Recommendation: | | Grant certificate of lawful development. | |
| Application Type: | | Certificate of Lawfulness (Proposed) | |

Site Description

The host building comprises a three storey property at King's Cross Bridge on the corner with Pentonville Road and Gray's Inn Road. The building has a vacant retail unit at ground floor and offices at upper floors. This application relates to the ground floor unit.

The application site is located in the Central London Area and within the King's Cross Conservation Area. The property is not listed.

Relevant History

2019/5116/P: Minor alterations to Grays Inn Road and Pentonville Road elevations to three storey building comprising retail/restaurant (Class A1/A3) at ground floor and office (Class B1a) at first and second floors and roof top plant, following demolition of existing building approved under planning permission ref: 2017/1206/P dated 15.08.2017. **Granted 18/03/2020.**

2017/1206/P: Variation of Condition 2 (approved plans) of planning permission reference: 2014/0371/P dated 26/08/2014 (for the erection of a three storey building comprising retail/restaurant (Class A1/A3) at ground floor and office (Class B1a) at first and second floors and roof top plant, following demolition of existing building) to amend the access from street to basement levels; raise the ground floor slab to allow access to underground tunnels; provision of basement services (cycle/refuse storage); alterations to upper floor layout; infill of approved void between first and second floor levels; provision of a full length facade to the ground floor elevation facing Kings Cross Bridge; revised materials for office entrance on Grays Inn Road and an increase in the height of approved plant screen, and Variation of Condition 3 (method statement) to allow some above ground development to commence prior to the submission/approval of the method statement for development proposed below ground level. **Granted subject to a S106 legal agreement 15/08/2017**

2014/0371/P: Erection of three storey building comprising retail/restaurant (Class A1/A3) at ground floor and office (Class B1a) at first and second floors and roof top plant, following demolition of existing building. **Granted subject to a S106 legal agreement.**

Relevant legislation

Town and Country Planning Act 1990

Town and Country Planning (Use Classes Order) 2015

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Assessment

A certificate of lawfulness for proposed development has been submitted to establish whether the proposed use of ground floor unit at the premises for commercial, business and service use (Class E) would be lawful.

Planning permission reference: 2014/0371/P for 'Erection of three storey building comprising retail/restaurant (Class A1/A3) at ground floor and office (Class B1a) at first and second floors and roof top plant, following demolition of existing building' granted retail or restaurant use in the ground floor unit. From August 2021 until October 2021 the ground floor unit operated as a retail unit in accordance with the above permission selling beds and related products.

On 1 September 2020, the Town and Country Planning (Use Classes Order) 2015 was amended and introduced new use classes. Retail was previously in use Class A1 and restaurant use within Class A3.

The planning history at the application site does not include any conditions restricting the use class of the premises.

Classes A1 and A3 have been revoked and a new class E was introduced on 1 September 2020. Schedule 2, Part A, of the amended use classes order has resulted in the uses previously falling with the following classes: A1, A2, A3, B1 along with some D1 and D2 uses, being under the same use class, Class E (commercial, business and service use). The applicant's evidence to substantiate the lawful use is reference to the site's planning history and a statutory declaration in relation to the retail operation within the unit. On the basis of the evidence, the local planning authority agrees that the existing lawful use of the ground floor unit, which according to permission reference: 20214/0371/P could be either retail or restaurant (previously classes A1 and A3), would now be within Class E.

The government's NPPG states that *'Movement from one primary use to another within the same use class is not development, and does not require planning permission.'* Accordingly the movement between Class E uses at the premises would not be a material change of use under the amended GPDO as such would not constitute development.

Recommendation: Grant Certificate of Lawful development.