

Officer's Report

Application Number	HGY/2022/4146
Type	Lawful development: Existing use
Location	The London Centre For Children With Cerebral Palsy, Coppetts Road, Hornsey, London, N10 1JP
Proposal	Certificate of lawfulness: Use of existing ancillary hard standing area for parking cars for visitors to the centre.
Case Officer	Matthew Gunning
Valid Date	14/11/2022
Applicant	Mr Douglas Paskin
Agent	mr Douglas Paskin

RECOMMENDATION

Permitted Development

Legislative Framework

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This is not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development on neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

This is not a planning application, and the planning merits are not relevant to this submission. Rather the applicant seeks confirmation that the proposed works do not constitute "development" as defined under Section 55 of The Town and Country Planning Act 1990 (as amended).

The meaning of "development" and "new development", is defined under Section 55 as follows:

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means 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.

Of relevance to this application is Paragraph 2 of this section which reads as follows:

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building... [continues]

In relation to this site, it is highlighted that development that is considered de minimis (or so minor as to not require consideration) would include minor works which, in relative terms, would not have a material effect on the external appearance of the building on which they are installed.

We are reminded in Section 336 of the Act that act that formation or laying out of the means of access to highways constitutes development. However, most accesses onto non-classified roads are permitted development by reason of Part 2 Class B of the General Permitted Development Order 1995 (GPDO) if formed in conjunction with another permitted development. The access to the proposed car parking area here is not over highway land but rather an existing car park owned/ controlled by the Council's Park department.

Assessment

This application has been submitted in conjunction with an application for a non-material amendment to application reference HGY/2020/0039. This Application is to remove the car park facility for CPotential that formed part of the planning consent approved on 27th May 2020.

By way of this certificate application a new area for the car parking on an existing tarmacked area is proposed, with no structures on this land and no operational development, other than limited works required to bring this into use, which would be de minimis in nature. The use of this land for car parking would remain linked with the main building, namely ancillary to the ongoing (lawful) use of the premises as used by CPotential.

The associated layout is for the provision of a modest number of spaces all of which would accommodate car parking that is ancillary to the function and use of the site by CPotential. It is pointed out that the laying out of such a space for parking remains separate from the need to obtain consent from the Council's Park Department to crossover land not within the ownership or control of CPotential. It is highlighted that the granting of this certificate does not automatically convey the approval/ granting of such consent.

Two trees are proposed to be removed from the entrance to facilitate such works. Such trees are not protected by way of a Tree Preservation Order and nor are they within a conservation area. In respect of the Landmark trees report and survey drawing, the applicant has now checked on site and realise they do not need to remove the two trees referred to in the report. An amended plan has been submitted to show this.

Conclusion

The proposed works would not constitute "development" as defined under Section 55 of The Town and Country Planning Act 1990 (as amended). Therefore, this lawful development certificate can be issued.

Informatives:

- INFORMATIVE: The granting of this consent does not convey or imply the agreement of consent to crossover land within the ownership/ control of the Council's Park's Department, with rather such agreement/ consent being a separate matter independent of planning legislation.