

Officer's Report

Application Number	HGY/2022/4322
Type	Lawful development: Existing use
Location	Bernard Works, Bernard Road, London, N15 4NX
Proposal	Lawful development certificate application to determine whether works undertaken on site have resulted in the implementation of the planning permission ref. HGY/2017/3584 (as amended) for 'Demolition of existing buildings and erection of a part 1,3,4,5,6,7 storey mixed used development comprising 25 Commercial Units (B1/B2), music rehearsal space (Sui Generis), cafe (A3), exhibition space (Sui Generis) (Commercial spaces totalling 2446.9m2 gross), and 99 Residential Units (C3) including 12 apartments tethered to the commercial space, plus site access, replacement open space, landscaping, plant and other associated development' in accordance with s.56 of the Town and Country Planning Act 1990.
Case Officer	Christopher Smith
Valid Date	05/12/2022
Applicant	Charalambous
Agent	miss Jo Hanslip

RECOMMENDATION

Approve

2. RECOMMENDATION

Issue a lawful development certificate to confirm that the works carried out on site are sufficient to have implemented the planning permission ref. HGY/2017/3584 (as amended).

3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Approved development

HGY/2017/3584. Demolition of existing buildings and erection of a part 1,3,4,5,6,7 storey mixed use development comprising 25 Commercial Units (B1/B2), music rehearsal space (Sui Generis), café (A3), exhibition space (Sui Generis) (commercial spaces totalling 2446.9m2 gross), and 99 Residential Units (C3) including 12 apartments tethered to the commercial space, plus site access, replacement open space, landscaping, plant and other associated development. The permission was required to be commenced before 9th July 2022.

Application description

The application seeks confirmation from the Council, under Town and Country Planning Act 1990 Section 191 that the operations carried out by the applicant in respect of the development as granted by planning permission ref. HGY/2017/3584 (as amended) are lawful and constitute commencement of the development in accordance with Section 56(4)(b) of the aforementioned Act, which 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, and that 'material

operation' for this purpose includes 'the digging of a trench which is to contain the foundations, or part of the foundations, of a building'.

The applicant contends that the development has been commenced prior to the expiration of the deadline for the commencement of the development (9th July 2022) on the basis that building works, specifically the digging of a trench and laying down of building foundations, occurred prior to that date and have continued on an ongoing basis since.

In support of their application the applicant has provided the Council with the following documentation:

- Site Location Plan (drawing no. BW_100)
- Planning Implementation Report
- Legal Opinion from Robert Walton KC
- Various Planning Decision Notices

4. ANALYSIS/ASSESSMENT

Commencement of Material Operations

The applicant has submitted a Planning Implementation Report (PIR) dated 2nd November 2022 which provides a summary of all relevant actions completed on site prior to the implementation date. Between June and July 2022 enabling works were undertaken on site by a contractor, which included excavation and slab construction, erection of a hoarding, removal of oil tanks and other associated works and surveys.

Within the PIR drawings are provided which show the location and construction details of the slab works. Photographic evidence is provided showing the works underway. The foundation works photos are stated to have been taken between 28th June and 8th July 2022. Other documentary evidence including email correspondence submitted with the PIR supports the works having taken place at that time.

The Council's Planning Lawyer has assessed the submitted information and stated that the digging of a trench to contain foundations as shown in the submitted photographs (and confirmed by additional photographs taken recently on site) would be sufficient to implement the planning permission.

The Council's Planning Register shows that all relevant pre-commencement planning conditions relating to below ground and demolition works had been dealt with as appropriate prior to works commencing.

As such, the Council is content that the foundation works undertaken are relevant to this development and were commenced prior to the expiry of the planning permission referenced above and therefore they constitute a 'material operation' in respect of Section 56(4) of the Act that has implemented the same planning permission.

As such, by the provisions of Section 192 of the same Act, the Council is also satisfied that the commencement of further works at any time to erect the proposed development as approved under planning ref. HGY/2017/3584 would be lawful given that the development has already begun.

Conclusion

Therefore, as the identified works have been completed and thus the relevant planning approval implemented, the Council is able to issue a certificate confirming that further building operations as

shown in the plans and documents approved under planning permission HGY/2017/3584 can be undertaken lawfully.

5. RECOMMENDATION

Issue a lawful development certificate to confirm that the works carried out on site are sufficient to have implemented the planning permission ref. HGY/2017/3584 (as amended).

Registered No. HGY/2022/4322

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