

Officer's Report

Application Number	HGY/2023/0669
Type	Lawful development: Existing use
Location	22 Moorefield Road, Tottenham, London, N17 6PY
Proposal	Certificate of lawfulness for the existing mixed use of the site for purposes within Class F1 (learning and non-residential institutions) and Class F2 (local community).
Case Officer	Daniel Kwasi
Valid Date	08/03/2023
Applicant	Mr. Orhan Dil
Agent	ADA GROUP

RECOMMENDATION

Approve

RECOMMENDATION

GRANT CERTIFICATE

PROPOSED DEVELOPMENT AND LOCATION DETAILS

The application is for a certificate of lawfulness for the existing mixed use of the site for purposes within Class F1 (learning and non-residential institutions) and Class F2 (local community).

The subject site is a former postal sorting office, part single and part two storey building with flat roofed extensions and pitched roofs with gable ends on the eastern side of Moorefield Road. To the rear of the site backs onto the railway line and Bruce Grove Railway Station. The application site is the last commercial building and from this point on the residential houses starts. The surrounding area is a mix of commercial and residential use.

The planning statement states that there are several uses within the premises:

- Café – serves hot and cold food and drinks.
- Drop in services – range of services such as library, satellite TV for users to socialise, watch news, read newspapers, a bookshop, access to free Internet, etc.
- Advice – general, benefits, disability welfare, housing, etc.
- Health - health and wellness advice, workshops, activities, mental health seminars and help, etc.
- Youth services – after school and weekend clubs (for maths, English, chess, art, music classes, advice on education, training and employment, health, family and relationship matters, digital skill courses, CV writing, outdoor activities and classes, sport clubs, etc.
- Women's services – breakfast clubs and crafts classes, health information, indoor and outdoor activities, etc.
- Education – Supplementary classes. For adults and children according to requirement and demand.
- Traditional festival organisation – every year in a local park with numerous activities.

RELEVANT PLANNING AND ENFORCEMENT HISTORY PLANNING APPLICATION HISTORY

CON/2022/00404 PCN – notice to gain information – 18/01/2023

HGY/2019/1375 – Installation of mezzanine floor with dormer window – Refused 05/07/2019

HGY/2017/0783 – Variation of condition 4 (opening hours) attached to planning permission HGY/2007/2150 to extend the hours of the community centre to the public to 08:00 – 23:00 hours on Monday to Sunday or Bank Holidays – Refused 25/04/2017 – Appeal dismissed 03/11/2017

CON/2016/0730 – Breach of Condition 4 (opening hours) of HGY/2007/2150 – Breach established

HGY/2016/2700 – Variation of Condition 4 (hours of operation) following a grant of planning permission HGY/2007/2150 so that the premises should not be open before 08:00 or after 23:00 Sunday to Thursday and before 08:00 or after 23:00 on Fridays and Saturdays – Refused 05/10/2016

HGY/2013/0265 – Installation of external metal staircase from ground to first floor and insertion of new ground and first floor doorways to north elevation – Approved 05/04/2013

HGY/2013/0265 – Installation of external metal staircase from ground to first floor and insertion of new ground and first floor doorways to north elevation – Approved 02/04/2013

HGY/2007/2150 – Change of use from Postal Sorting Office (A1) to Community Centre (D1), with associated alterations to attached side building to provide canteen – Approved 11/12/2007

CONSULTATION RESPONSE

No one was consulted regarding the application.

RELEVANT LEGISLATION AND GUIDANCE

The application has been made under section 191 of the Town and Country Planning Act 1990 (as amended). Section 191 of the 1990 Act provides for anyone to apply to the local planning authority (LPA) for a lawful development certificate (LDC). A certificate is a statutory document certifying the lawfulness, for planning purposes, of existing operations on, or use of land, or some activity being carried out in breach of a planning condition.

By virtue of section 191 (2), uses and operations are "lawful" if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force. And, by virtue of section 191(3), a failure to comply with any condition or limitation subject to which planning permission has been granted is "lawful" if the time for taking enforcement action in respect of the failure has expired and it does not constitute a contravention of any enforcement notice or breach of condition notice which is in force.

Development or other activity on land is lawful for planning purposes if it is within one of the following categories and does not involve a failure to comply with a condition or limitation subject to which planning permission has been granted:

(1) it is not within the definition of "development" in section 55(1) and (1A) of the 1990 Act. (This might be because it is so insignificant that it can be disregarded (a "de minimis" operation, use or activity); or because it involves a change of use which is not, as a matter of fact and degree, materially different, for planning purposes, from a previous lawful use of land.); or

(2) it is specifically excluded from the definition of development by section 55(2) (for example, a use of land for the purpose of "agriculture"); or

- (3) it is within the definition of "development" in section 55, but is exempted from the need for planning permission by the provisions of section 57; or
- (4) it benefits from an extant grant of planning permission under Part III of the 1990 Act (or the equivalent Parts of preceding Acts); or
- (5) it benefits from a general planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418), or by a simplified planning zone or enterprise zone scheme; or
- (6) it benefits from deemed planning permission, whether under section 90 or by virtue of compliance with the requirements of an effective enforcement notice; or
- (7) it took place before 1 July 1948 (the "appointed day" Country Planning Act 1947); or
- (8) it is development by or on behalf of the Crown; or
- (9) the time for taking enforcement action has expired.

"Taking enforcement action" is defined in section 171A of the 1990 Act. It is the issue of an enforcement notice or the service of a breach of condition notice. The section also defines a "breach of planning control" (against which it is possible to take enforcement action) as the carrying out of development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted.

Section 171B of the 1990 Act specifies the time-limits for taking enforcement action which are as follows:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of ten years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or taking further enforcement action in respect of any breach of planning control if, during the period of ten years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

ANALYSIS/ASSESSMENT OF THE APPLICATION

Section 191 of the Act indicates that the burden of proof lies with the applicant, but the relevant test is 'the balance of probability'. Local Planning Authorities (LPAs) are advised that unless the applicant's evidence is imprecise or ambiguous, or the LPA has evidence of its own which contradicts or undermines the applicant's version of events), a certificate should be issued.

This is not a planning application and the planning merits are not relevant to this submission. Rather the applicant seeks to prove by the submission of evidence that the mixed uses as Class F.1 (Learning and non-residential institutions) and Class F.2 (Local community) has been in place for a period in excess of 10 years and is therefore immune from enforcement action.

The relevant test of the evidence is "the balance of probability" if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of

events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate.

Information provided by Applicant

The application form accompanying this application asserts that: the use of 22 Moorefield Road, London, N17 6PY as mixed uses F1 (Learning and non-residential institutions) and F2 (Local Community) commenced on 12-12-2007.

The application is accompanied by the following evidence:

- Planning Statement

The Planning Statement lists all documents that have submitted with the application:

Information provided: Statutory Declaration of Mehmet Sumbul – Operations manager of the site confirming F1 and F2 mixed use of the site since 2014 to date

Date and method of verification: Submitted with the application. The name of the witness Solicitor is Ersan Solicitors. It was signed and dated on 06/03/2023.

Officer's comments: Declaration made by the Operations Manager at North London Community House Ltd, at 22 Moorfield Road, Tottenham, London, N17 6PY (the site). It confirms that they have been the Operations Manager since 2014, and that the site is use as a community centre, and that they regularly rent out classrooms, entrance and main hall for events to support the centre and also to provide the community's needs.

Information provided: Statutory Declaration of Orhan Dil – Director of the site confirming mixed use of the premises since the opening of December 2007

Date and method of verification: Submitted with the application. The name of the witness Solicitor is Ersan Solicitors. It was signed and dated on 06/03/2023.

Officer's comments: Declaration made by one of the Directors at North London Community House Ltd. They state they have been actively involved with the centre since its opening in December 2007 to date. They state that since December 2007, the property has been used as a community centre which provides education, training, course for all, advice, as well as halls and meeting places for the local community for religious events, weddings, parties, etc.

Information provided: Statutory Declaration of Ahmet Sezgin – Operations manager of the site from 2008 until 2014 confirming mixed use of the premises

Date and method of verification: Submitted with the application. The name of the witness Solicitor is Ersan Solicitors. It was signed and dated on 06/03/2023.

Officer's comments: Declaration made by the former Operations Manager at North London Community Hose Ltd, who held this position between 2008 and 2014. They state that property was used as a community centre which provided education, training, advice, as well as halls and meeting places for the local community for religious events, weddings, parties, etc.

Information provided: Festival posters – 2013 until 2022 showing activities, events in the premises. Large gatherings, etc
Submitted with the application.

Date and method of verification: These are nine Day-Mer Culture and Art Festival brochures that are numbered according to the issue since Day-Mer began in 1989. Issues are 24th (2013), 25th (2014), 26th (2015), 27th (2016), 28th (2017), 29th (2018), 30th (2019), 31st (2020), 32nd (2021), and 33rd (2022).

Officer's comments: These events happen from June to July.

Information provided: Festival posters online – 2020 and 2021, due to Covid restrictions, these festivals were online

Date and method of verification: Submitted with the application. These are the 31st and 32nd issues.

Officer's comments: The event dates on the festival poster range from 18 June to 5 July 2020. These events were conducted online due to the COVID restrictions.

Information provided: Invitations of events (weddings and parties) to the site (x2 documents) – these are several and from 2010 until to date. Large gatherings with catering, photography, decorations, etc

Date and method of verification: Submitted with the application

Officer's comments: The date range of the invitations for the events date back from 30 Mayis 2010 (30 May 2010) to 01 Aralik 2018 (01 December 2018) in the first document, and then from 1 Subat (February) 2019 to 13 August 2022.

Information provided: YouTube screen shots of events at the site since 2014

Date and method of verification: Submitted with the application. The date range of the videos are from 31/05/2014 to 11/12/20219, which are still in existence on YouTube. The hyperlinks were verified by visiting them on YouTube.

Officer's comments: The videos are still available online on YouTube. They can be found on the channel Studio Aydin.

Information provided: Social, cultural events, art events (x2 documents) – 2013 to date.

Date and method of verification: Submitted with the application. The date range of the invitations for the events date back from 21 June 2013 to 31 Aralik (December) 2017 in the first documents, and then from 4 Mart Pazar (4 March, Sunday - presumably 2018 because 4th March was on a Sunday in 2018) to 22 Kasim (November) 2022. Some posters say Londra Toplum Merkezi, which translates to London Community Centre.

Officer's comments: N/A

Information provided: Letter from Hazal Catering – confirming large events catered by them since 2008 to date

Date and method of verification: Submitted with the application. The letter was signed by the Director of Hazal Catering and Events on 24/02/2023.

Officer's comments: The letter states that they have used the used since 2008 for planning weddings, circumcision parties, birthdays, engagements, and all kinds of parties at their hall.

Information provided: Letter from Mira Wedding Photograph – confirming they regularly attended the site to film and photo the events since 2014 to date

Date and method of verification: Submitted with the application. The letter was signed by the Director of Mira Wedding Photography & Videography on 27/02/2023.

Officer's comments: The letter states that they have been visiting the site for various events 15 or 20 times a year since 2014.

Information provided: Platin Photography's letter – confirming regular attendance to site to film and photograph the large events

Date and method of verification: Submitted with the application. The letter was signed by the Director of Platin Photography on 28/02/2023.

Officer's comments: The letter states that they have been to the venue 10 to 15 times a year since their started they business activity in 2003.

Information provided: Prime Photo and Video's letter– confirming regular attendance to the site to film and photograph the large events since 2014

Date and method of verification: Submitted with the application. The letter was signed by the Director of Prime Photography & Videography on 28/02/2023.

Officer's comments: The letter states they have been shooting videos and taking photos of weddings, engagements and henna parties at the North London Community House Hall, due to the request of their customers since 2014.

Information provided: Safak Catering letter – confirming they organise weddings at this location since 2008.

Date and method of verification: Submitted with the application. The letter was signed by the Director of Safak Catering on 01/03/2023, who are a Florist & Wedding Organisation.

Officer's comments: The letter states that they have been organising weddings and parties since 2008 at the request of their customers in the North London Community House.

Information provided: Tac Wedding Services' letter – confirming they décor and cater events since 2012.

Date and method of verification: Submitted on 02/05/2023 (although mentioned in the Planning Statement). The letter was signed by Tac Wedding Services Ltd on 27/02/2023.

Officer's comments: The letter states that they have been covering all sorts of events by providing catering and décor services at London Community House since 2012.

Information provided: The Pentecostal Church of Mangembo's Letter – Confirming that this Christian community uses the main hall twice a week last 6 years.

Date and method of verification: Submitted with the application. The letter was signed by the Reverend of Pentecostal Church of Mangembo on 27/02/2023.

Officer's comments: The letter states that the venue has been used on Thursdays and Sundays for Church for the last 6 years.

Information provided: Tottenham Hotspur Foundation's Letter – confirming last 8 years they have been workshops and sessions in the premises.

Date and method of verification: Submitted with the application. The letter was signed by the Senior Coordinator of the Tottenham Hotspur Foundation, Ida Blake, on 27/02/2023.

Officer's comments: The letter states that for the past 8 years, their relationship as a community partner has benefited residents in Haringey, by provided health and wellbeing workshops and activities granted many easy accesses to the venue without incurring a charge. It also states that the added flexibility of having the option to hold evening/weekend sessions has allowed them to reach those who cannot attend in the week/daytime.

Information provided: Haringey Trades Union Council's Letter – confirming activities and events within the premises.

Date and method of verification: Submitted with the application. The letter was written by the Secretary of Haringey Trades Union Council, Paul Power, but it has no date and signature.

Officer's comments: He has been a teacher in Tottenham for 23 years. The letter states the centre has been it has also hosted meetings organised by Haringey TUC and others to address the cost of living crisis.

The evidence presented to substantiate the statement of case is considered comprehensive in nature. On the balance of probability therefore it is considered that the evidence submitted by the applicant precisely and unambiguously demonstrates that the use of 22 Moorefield Road, London, N17 6PY has been used as mixed uses of Class F.1 (Learning and non-residential institutions) and Class F.2 (Local community) for a continuous period of ten years before the date of this application.

RECOMMENDATION

Grant the requested Certificate of Lawfulness under section 191 of Town and Country Planning Act 1990.

From the documentation and evidence provided, the Local Planning Authority is satisfied that, on the balance of probabilities, 22 Moorefield Road, London, N17 6PY has been used for mixed use purposes within Class F1 (learning and non-residential institutions) and Class F2 (local community) of the Town & Country Planning (Use Classes) Order 1987 (as amended) for a continuous period of ten years before the date of this application. Therefore, the existing use is considered to be lawful.

Informatives:

- **INFORMATIVE: Hours of Use**
You are advised that condition No.4 of the original planning permission HGY/2007/2159 granted 12th Dec 2007, restricts the hours of use of the premises to between 0800 and 2200 hours Monday to Friday and between 0900 and 2200 hours on Saturdays, Sundays, and Bank Holidays.