

Officer's Report

Application Number	HGY/2023/1235
Type	Lawful development: Existing use
Location	11 Cedar Court, Colney Hatch Lane, Hornsey, London, N10 1EE
Proposal	Certificate of lawfulness to run the applicant's private car hire business from their home. The property will remain a private residence (Use Class C3) with the business operating ancillary to it.
Case Officer	Ben Coffie
Valid Date	09/05/2023
Applicant Agent	Mr Georgi Spasikov

RECOMMENDATION

Approve

PROPOSED DEVELOPMENT AND LOCATION DETAILS

This is an application for a Certificate of lawfulness for the existing use of the using residential home to work exclusively online.

The property is not located in a conservation area, nor does it have a listed status.

SITE DESCRIPTION

The property is within a four-storey residential flat within a site which forms part of a housing estates located on the west side of Colney Hatch Lane. The area is predominantly residential in character. The site is located adjacent to the Fortis Green conservation area.

PLANNING & ENFORCEMENT HISTORY

There is no relevant planning or enforcement history in relation to this site.

RELEVANT PLANNING LEGISLATION

The application has been made under section 55 of the Town and Country Planning Act 1990 (as amended). Section 55 of the 1990 Act describes the meaning of "development" and "new development". Subsection 2 specifically relates to operations or uses of land that should not be taken for the purposes of the Act to involve development of the land. Relevant here are sub-point (a) which includes works which affect only the interior of the building (i), or do not materially affect the external appearance of the building (ii), and sub-point (c) covering "the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such".

ASSESSMENT OF APPLICATION

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 building operation does not constitute development which would require planning permission and that the operation is

therefore lawful. The applicant must prove that the intended operation referred to in the application (use of a room as a home-office) do not constitute development as described in section 55 of the Town and Country Planning Act 1990 (as amended) and is thereby lawful for planning purposes.

The key tests to assess whether the use of a house as a home office does not constitute development will be whether the overall character of the dwelling will change as a result of the use to the point where it can no longer be considered solely residential in nature. In order to ensure the use remains ancillary to the enjoyment of the dwellinghouse, the following points must be addressed:

- Will the property still be used mainly as a private residence?
- Will the use result in a marked rise in traffic or people calling at the property?
- Will the use involve any activities unusual in a residential area?
- Will the use disturb neighbours at unreasonable hours or create other forms of nuisance such as noise or smells that would create adverse impact to their residential amenity?

The nature of the business would not constitute any external changes to the property which would require planning permission, neither would the business require employees or vehicles within the site to its operation. Consequently, there would be no impact against the residential amenity, the design and appearance of the site and surroundings or parking.

In light of the above, it is considered that the use of part of the property as a home office will remain incidental to the enjoyment of the dwellinghouse and will not affect the exterior of the property and as such does not constitute development which would require planning permission.

RECOMMENDATION

The applicant has demonstrated that the use of part of the property as an occasional office ancillary to its use as a dwelling house (Use Class C3) will not constitute development as described in section 55 of the Town and Country Planning Act 1990 (as amended). The use is therefore deemed lawful.