

Officer Report

Application Number:	HGY/2023/1417
Application Type:	Lawful development: Proposed use
Address:	Jameson Lodge, 58 Shepherds Hill, Hornsey, London, N6 5RW
Proposal:	Certificate of lawfulness to confirm that the works as part of application reference HGY/2019/1139 have been lawfully implemented within the time limit set down by Condition no. 1 and therefore the completion of the balance of the approved development would be lawful.
Case Officer:	Matthew Gunning
Valid Date:	26/05/2023
Applicant:	3 Maycap Ltd.
Agent:	Mr. Alex Catterall

RECOMMENDATION

Approve

1. DESCRIPTION OF APPLICATION

This is an application for a certificate of lawfulness to confirm that the works as part of application reference HGY/2019/1139 have been lawfully implemented within the time limit set down by Condition no. 1 and therefore the completion of the balance of the approved development would be lawful.

2. APPROVED DEVELOPMENT

HGY/2019/1139– Partial demolition of existing garages and erection of 1 x 2-bedroom and 1 x 3-bedroom dwellings and associated landscaping works (Class use C3) – Approved

3. RELEVANT LEGISLATION AND GUIDANCE

The application is made pursuant to S192(2) of the TCPA 1990, which allows for a certificate to be issued by the Local Planning Authority to determine if a proposed operation, has been carried out, within the relevant timescale, which constituted a “material operation” to begin the development permitted by a planning permission.

The judgment of whether a development has been begun has to be considered against the Act. Section 56(2) of the 1990 Act as amended indicates that, for the purposes of this part of the Act, 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. Section 56(4) indicates that “material

operation" means, amongst other things, the digging of a trench which is to contain the foundations, or part of the foundations of a building.

4. ANALYSIS/ASSESSMENT

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 works relating to planning permission reference HGY/2019/1139 have commenced and is therefore immune from enforcement action.

Section 56 of the 1990 Act deals with when development of land shall be taken to be initiated and 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'.

A cover letter submitted with this application highlights that works have commenced. Specifically it outlines that Record of Works to Date to date show the works of demolition to garages no. 1 and 2 were carried out in the week commencing 15 May 2023 and finished no later than 23 May 2023.

The letter also outlines that all of the relevant pre-commencement conditions have been discharged regarding the application. Therefore, the commencement of the works would not be in breach of any of the conditions attached to the original permission.

The applicant has demonstrated that on the balance of probability that works in relation to extant permission HGY/2011/1550 were undertaken and that such work amounted to development having commenced within the expiry period for this permission.

The implementation of the planning permission HGY/2019/1139 therefore has commenced no later than 3 years from the date of the original permission – 29/05/23.

The applicant has demonstrated that the development as part of planning permission HGY/2019/1139 has commenced and is therefore lawful.

5. RECOMMENDATION - GRANT CERTIFICATE

The Council hereby certify that the operations as described in the evidence submitted to the Local Planning Authority attached to this certificate, have been carried out within the relevant timescale, which constituted a "material operation" to begin the development permitted by planning permission HGY/2019/1139, within the meaning of the section 191(2) of the Town and Country Planning Act 1990.