



Officer Report

Application Number:	HGY/2023/1949
Application Type:	Lawful development: Proposed use
Address:	684B High Road, Tottenham, London, N17 0AE
Proposal:	Certificate of lawfulness for the proposed change of use of existing internet café (Use Class E) to an office for the booking of private hire vehicles (online and telephone booking only) (Use Class E).
Case Officer:	Kwaku Bossman-Gyamera
Valid Date:	19/07/2023
Applicant:	Hamdi Farah
Agent:	Mr Mark Mirams

RECOMMENDATION

Permitted Development

SITE DESCRIPTION

The application site features a three- storey end of terrace property situated on north-western side of Tottenham High Road with side pathway running parallel to the side elevation. The premises is located within a parade of shop, whereby the surrounding area is predominantly commercial units on the ground floor with residential accommodation on the upper floors.

The site is located within THRHC/North Tottenham conservation area and does not fall within the curtilage of a listed building.

Relevant Planning and Enforcement History

- HGY/1996/1356 – Granted 26.11.1996 - Change of use from retail (Class A1) to telephone bureau (Class A2).
- HGY/1994/0323 – Granted 12.04.1994 - Installation of new shopfront to front and side of the building.

DETAILS OF PROPOSAL

The application seeks a Certificate of lawfulness for the proposed use of the existing internet café space to be used as private hire booking office (Online and Telephone booking only) within the premises of the existing office space (Class E).

CONSULTATIONS/REPRESENTATIONS

An application for a Certificate of Lawfulness is a request to the Council to confirm that the development as specified is Lawful. In assessing this application, the Council is making a determination of fact. As such, it is not considered to be necessary to undertake a public consultation.

RELEVANT PLANNING LEGISLATION

The application has been made under sections 55 and 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful.

ANALYSIS/ASSESSMENT OF THE APPLICATION

In accordance with the current criteria for site visits, an in-person site visit was not undertaken. Site photos were provided by the applicant in support of this application. In determining this Lawful Development Certificate application, photos, Google Street View, aerial view images and submitted drawings were used to assess the site and the proposals.

As per s.192(1) of the Town and Country Planning Act 1990 (as amended), if any person wishes to ascertain whether;

- a. any proposed use of buildings or other land; or
 - b. any operations proposed to be carried out in, on, over or under land,
- would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

The Council maintain that as per s.192(2) of the Town and Country Planning Act 1990 (as amended) that the onus is firmly upon the Applicant to demonstrate to the satisfaction of the Council that the use or operations described in the application would be lawful if instituted or begun at the time of the application. The courts have held that the relevant test of the evidence on such matters is on the 'balance of probability'.

Section 55 of the Town and Country Planning Act 1990 (as amended) states that planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is further set out within this section.

'Development' includes 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.

The categories of work that do not amount to 'development' are set out in Section 55(2) of the Town and Country Planning Act 1990. This includes, but is not limited to;

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.

- The carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose.

- In the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

- The existing floor area within the building would be used as a booking office with respect to a private hire contract,

- No customers or members of public (apart from the applicant/staff) would visit the property,
- No cars associated with use of the property for a hire purpose would be parked on the streets within the vicinity of the application property.
- No external changes are proposed

The existing & proposed uses fall within the same use class and therefore the proposed change of use would not require planning permission.

It has been demonstrated to the satisfaction of the Local Planning Authority that the use or operations described in the application would be lawful within the meaning of S192 of the Town and Country Planning Act 1990 (as amended) if instituted or begun at the time of the application.

RECOMMENDATION

It is recommended that a Certificate of Lawfulness be issued.