

PLANNING STATEMENT

for

Certificate of Lawful Use/Development

**Lawful Use of building as 23 self-contained
Apartment (Use Class C3) in accord with a Prior
Notification Consent**



**Site at
First to Fourth Floors
73-77 Lewisham High Street
London SE13 5JX**

November 2023

1.0 Introduction

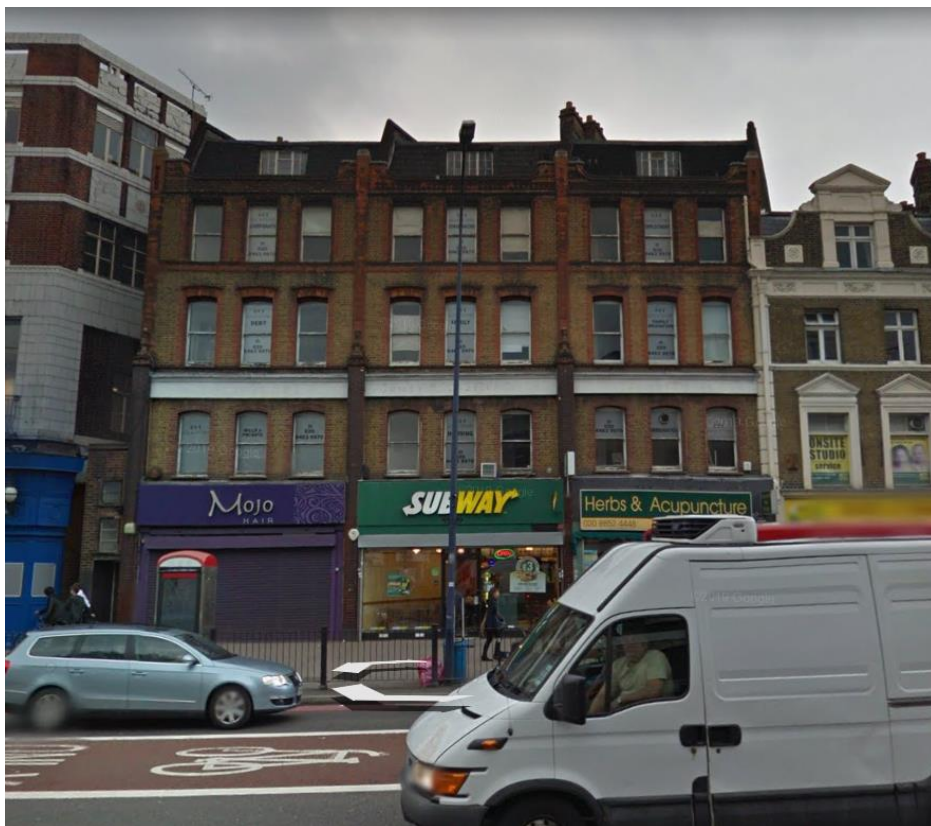
- 1.1 This Planning Statement has been prepared in support of an application for a Lawful Use/development Certificate on the first to fourth floors of this 5 storey building known as 73-77 Lewisham High Street for its continued use as 23 self contained apartments.
- 1.2 Prior Notification permission was granted under Part O of the GPDO (now superseded by Part MA) on this site under reference DC/21/121085 for the change of use of the first to fourth Floors at 73-77 Lewisham High Street SE13, from office (Use Class B1a) to residential (Use Class C3) in order to provide 23 flats. -**Appendix AP1**
- 1.3 The LPA determined that prior approval was required and granted such prior approval on 13th August 2021 ('the Prior Approval').
- 1.4 This Prior Approval was automatically subject to a condition that the development must be completed within a period of three years starting with the prior approval date by operation of GPDO Schedule 2 Part 3 Paragraph O.2(2)1).
- 1.5. The conversion authorised by the Prior Approval is conditioned therefore to be completed by 13th August 2024.
- 1.6 Works on site have now been completed in accordance with the approved drawings which are set out below: (**Appendix AP2**)
- 345-LHS-07 Rev N; 345-LHS-08 Rev N (received 23 June 2021);
 - 345-LHS-01; 345-LHS-02 Rev A; 345-LHS-03; 345-LHS-04 Rev
 - DC; 345-LHS-05 Rev DB; 345-LHS-06 Rev DB (received 6 August 2021).
- 1.7 This certificate application therefore seeks approval from the LPA to confirm that the development, as approved, has been undertaken in accordance with the approved plans and completed prior to the end of the three-year period from the prior approval consent date.
- 1.8 The NPPG identifies that the relevant test for success of such a Certificate is on the "balance of probability".
- 1.9 In addition Paragraph: 006 (Reference ID: 17c-006-20140306) of the NPPG advises:
- "The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.*
- In the case of applications for existing use, 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 on the balance of probability."*

1.10 Given the recent grant of planning permission for two extensions to this building as set out in Section 3.3 below the Applicant would seek to obtain a lawful development certificate in terms of the permitted development permission being completed prior to any commencement of works granted by the most recent “extension permission”.

2.0 The Site

2.1 The property forms part of a terrace of three five storey buildings with “town centre” uses at ground floor and upper floors which were used for office purposes but have now been converted to form 23 apartments.

2.2 The street elevation of the site is shown below.



2.3 The site has retail outlets at ground floor, which did not form part of the approved prior notification application and there is also a separate pedestrian access at ground floor which then serves four floors of now 23 residential units above.

2.4 The site is located in a highly sustainable location sitting on the east side of Lewisham High Street. The site has a PTAL rating of 6b which is excellent. The site is not listed and not within a defined Conservation Area.

3.0 Planning History and Layout of the building

3.1 Prior Notification permission was granted on this site under reference DC/21/121085 for:

“An application for Prior Approval submitted under Class O, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the first to fourth Floors at 73-77 Lewisham High Street SE13, from office (Use Class B1a) to residential (Use Class C3) in order to provide 23 flats.”

3.2 This application was approved on 13/08/2021.

3.3 In addition planning permission DC/23/132616 was granted in September this year for Construction of two extensions at second floor level at the rear of 73-77 Lewisham High Street SE13, in order to extend two residential units and an office.

4.0 Legislative Background

4.1 Section 191 (1) states that if any person wishes to ascertain whether—

*“(a)any existing use of buildings or other land is lawful;
(b)any operations which have been carried out in, on, over or under land are lawful;
or
(c)any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,*

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.”

4.2 Development or other activity on land is lawful for planning purposes if, amongst other matters, 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.

4.3 The NPPG advises in the case of applications for existing use at Paragraph: 006 (Reference ID: 17c-006-20140306) that:

“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, 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 on the balance of probability.

In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.”

4.4 In addition the Court has held (see *F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. Importantly this paragraph advises that: -

“If the LPA have no evidence of their own, or 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 "on the balance of probability". The LPA should proceed on the basis that neither the identity of the applicant (except to the extent that he or she may or may not be able personally to confirm the accuracy of any claim being made about the history of a parcel of land), nor the planning merits of the operation, use or activity, are relevant to the consideration of the purely legal issues which are involved in determining an application.”

5.0 Evidence

5.1 The conversion of the upper floors of the buildings to from 23 residential apartments constituted permitted development under the then in force Part O of the GPDO subject to the grant of prior notification consent.

5.2 In this case such prior notification consent was granted and it is a requirement of Schedule 2 Part 3 Paragraph O.2(2)1) that such development be completed within three years from the date of the consent.

5.3 At **Appendix AP3** we attach the Officer Report for the most recent planning permission under reference DC/23/132616 for the construction of two extensions at second floor level in order to extend two residential units and an office.

5.4 In terms of the current “status” of the building this Report advises:

“The application site is located on a north side of Lewisham High Street. The application buildings form part of a terrace of three five storey buildings with commercial uses at the ground and upper floors. This application related to the first, second, third and fourth floor only. The floors relevant to this application are currently vacant but were granted prior approval to change use to provide 23 flats in 2021. These works have now been undertaken. The property has a yard to the rear with access onto Myron Place.”

5.5 At **Appendix AP4** we attach the street naming and numbering registration for all 23 apartments.

5.6 The applicant submits that such works have now been completed, as accepted by the LPA in the recent officer report, in accordance with the approved plans as highlighted at the outset of this Statement and that such works have been completed within the three-year “condition” imposed by the GPDO.

5.7 It is therefore submitted that all 23 flats which exist on the site are now lawful and can be granted a lawful development certificate under section 191(1) of the Act.

6.0 Conclusions

6.1 It is submitted that the Applicant has in this case submitted with this application sufficient evidence to demonstrate that all 23 of the apartments which exist in the upper floors of the building are lawful and in accordance with the prior notification permission and requirements of the GPDO in such regards.

- 6.2 The NPPG identifies that the relevant test for success is the “balance of probability” and this application is supported by copies of the approved drawings together with a copy of the prior notification consent itself.
- 6.3 **Given the evidence submitted in support of this application, and the guidance contained within the NPPG unless the Local Planning Authority possesses any evidence to the contrary, then this application for a Certificate of Lawful use/development for the 23 flats within the application site should be approved.**