

LDC (Existing) Report		Application number	2022/4969/P
Officer		Expiry date	
Tony Young		09/01/2023	
Application Address		Authorised Officer Signature	
Flat 1 177 Arlington Road London NW1 7EY			
Conservation Area		Article 4	
Camden Town		Article 4 Directions (basements / E to C3 CAZ KQ))	
Proposal			
Rear balcony door and window.			
Recommendation		Issue Certificate	
<p>Introduction</p> <p>The application site is a 3-storey building with roof extension located on the west side of Arlington Road, near the junction with Parkway to the south. The ground floor is occupied by a commercial unit with the upper floors used as residential flats. This application relates to the rear of Flat 1.</p> <p>The building is not listed and is located in the Camden Town Conservation Area.</p> <p>The application seeks to demonstrate that, on the balance of probability, a rear balcony door and window were completed and have been in existence for a continuous period of at least four years before the date of the application, such that their retention would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following documents/information in support of the application:</p> <ul style="list-style-type: none"> Email from Mr McGregor Fea (applicant) dated 31/03/2023, asserting that works to install a door and window to access a rear patio to Flat 1 were completed on 22/08/2018; FENSA Certificate, issued on 13/11/2018 in relation to works completed on 22/08/2018 to install a door and window to Flat 1; Receipt from Doors Group Ltd. dated 22/08/2018, showing payment for works to Flat 1; Site survey details from Value Doors, indicating survey carried out on 03/07/2018 in regard to a door and window at Flat 1; Photographs of rear door and window at Flat 1, showing existing and pre-existing images. <p>The applicant has also submitted the following drawing:</p> <ul style="list-style-type: none"> Unnumbered site location plan outlining the application site in red. <p>Council's Evidence</p> <p>There is the following relevant planning history, but no relevant enforcement action for the subject site:</p> <ul style="list-style-type: none"> PE9900982 - Change of use of the upper floors to form a (3-bedroom) maisonette on the mezzanine and 1st floors and 2 self-contained flats on the third and fourth floors and 			

associated external alterations. Planning permission granted 15/02/2002

- **9101382** - Change of use from residential to a mixed residential/office use of 5 rooms at 2nd and 3rd floor levels plus the retention of an additional storey on top of the existing 4-storey rear extension and its continued use for residential purposes. Planning permission granted 30/06/1992
- **26199** - The erection of an additional floor to provide additional living accommodation, together with the provision of a terrace at 3rd floor level (rear) and the erection of a conservatory at 1st floor level (rear). Planning permission refused 23/06/1978
- **23369** - The rebuilding of the existing back addition by the erection of a part three, part four storey rear extension to provide a kitchen, dining room, bathroom, study and conservatory for the residential unit on the first and second floors and the change of use of part of the existing shop to a ceramic/sculpture studio. Planning permission granted 19/11/1976
- **21370** - Rebuilding of the existing back addition by the erection of a part two, part three storey rear extension to provide a kitchen dining room and bathroom for the residential unit on the first and second floors, and a change of use of part of the existing shop to a ceramic/sculpture studio. Planning permission granted 17/09/1975
- **20686** - Rebuilding of the existing back addition by the erection of a part one, part three storey rear extension to provide kitchen/garden room, bathroom and storage space for the residential unit on rear of ground floor, and first and second floors, and change of use of part of existing shop to ceramic/sculptor studio. Planning permission granted 22/07/1975
- **J11/11/H/30587** - The erection of a roof extension and first and second/rear additions to provide additional residential accommodation for the existing residential maisonette and a terrace at rear third floor level. Planning permission granted 04/08/1960

Assessment

In regard to applications for a Certificate of Lawfulness, the Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the 'balance of probability', and authorities are advised that if they have no evidence of their own, nor any from others, to contradict or otherwise make the applicant's version of events less probable, there is no good reason to refuse the application, provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

It is considered that the information provided by the applicant is sufficiently precise and unambiguous to demonstrate that, on the balance of probability, the rear balcony door and window which are the subject of this application were completed and have been in existence for the required period of at least four years before the date of this application and appear to have remained as such until the present time.

This being the case, and given the fact that the Council does not have any evidence to contradict or undermine the applicant's version of events, their retention would not require planning permission. As such, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness