

LDC Report		01/11/2023									
Officer		Application Number									
Leela Muthoora		2023/3230/P									
Application Address		Recommendation									
37 Belsize Lane London NW3 5AS		Grant Lawful Development Certificate									
Proposal											
Installation of security shutter, shutter box, awning and access ramp to shopfront.											
Assessment											
<p>Site Description</p> <p>The site is a basement and ground floor double fronted unit located within a four-storey building on the eastern side of Belsize Lane. The upper floors are used as residential accommodation at number 37 Belsize Lane, and residential and office accommodation at number 39 Belsize Lane.</p> <p>The two ground floor commercial units at numbers 37 and 39 Belsize Lane have been amalgamated into one unit, in use as a café; however the frontages appear as separate shopfronts with differences in detail.</p> <p>The site is located within the Belsize Conservation Area, however it is not a listed building (nor are there any nearby listed buildings). The building is characteristic of the local area, being defined as making a positive contribution to the character of the Conservation Area by the Belsize Conservation Area Statement (2002).</p> <p>Proposed Development</p> <p>The application seeks to demonstrate that the operations were substantially completed more than four years before the date of this application.</p> <p>Relevant Planning History</p> <table border="1"> <thead> <tr> <th>App ref</th> <th>Development Description</th> <th>Decision & Date</th> </tr> </thead> <tbody> <tr> <td>2018/5532/P</td> <td>Installation of security roller shutters, shutter boxes and awnings to shop fronts at no. 37 and 39 and access ramp to no. 37 (Retrospective).</td> <td>Refused and Warning of Enforcement 28/02/2022 Appeal Dismissed ref: APP/X5210/W/22/330096 27/04/2023</td> </tr> <tr> <td>2018/5528/A</td> <td>Display of 2x externally illuminated fascia signs (Retrospective).</td> <td>Granted 28/02/2022</td> </tr> </tbody> </table> <p>The appeal decision and Council note that an external shutter, associated apparatus and</p>			App ref	Development Description	Decision & Date	2018/5532/P	Installation of security roller shutters, shutter boxes and awnings to shop fronts at no. 37 and 39 and access ramp to no. 37 (Retrospective).	Refused and Warning of Enforcement 28/02/2022 Appeal Dismissed ref: APP/X5210/W/22/330096 27/04/2023	2018/5528/A	Display of 2x externally illuminated fascia signs (Retrospective).	Granted 28/02/2022
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retractable awning having been in place to the shop front of 39 Belsize Lane since 2009 and have become lawful through the passage of time. As a result, this certificate relates to 37 Belsize Lane only.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- SM Planning Letter dated 02/08/2023
- Appendix 1 invoice from 'Shutters and Doors Ltd' dated 14/03/2018
- Appendix 2 photos July 2019 to 2022

The applicant has also submitted the following plans:

- A site location plan outlining the application site

Council's Evidence

Assessment

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) (now cancelled), but repeated in current Planning Practice Guidance. The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, 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.

The Council does not have any evidence to contradict or undermine the applicant's version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the security shutter, shutter box, awning and access ramp to the ground floor shopfront unit were completed more than four years before the date of this application, as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Grant Lawful Development Certificate

