

LDC (Existing) Report		Application number	2024/0602/P
Officer		Expiry date	
Tony Young		10/04/2024	
Application Address		Authorised Officer Signature	
Flat 2nd Floor 60 Parkhill Road London NW3 2YT			
Conservation Area		Article 4	
Parkhill and Upper Park		Article 4 Direction (basements)	
Proposal			
Roof terrace above 3rd floor level.			
Recommendation	Issue Certificate		
<p>Introduction</p> <p>The application site comprises a 3-storey semi-detached villa, situated on the east side of Parkhill Road. The property is in residential use and has been converted into flats. The surrounding area is residential in nature characterised by many similarly designed large semi-detached properties that have also been converted into residential flats.</p> <p>The site is not listed nor located within a conservation area; however, it is situated in close proximity to Parkhill and Upper Park Conservation Area.</p> <p>The application seeks to demonstrate that, on the balance of probability, building works to provide a roof terrace above 3rd floor level were completed at least four years before the date of this application, such that their retention would not require planning permission.</p> <p>Responses</p> <p>Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved in their determination, the Council does not have a statutory duty to engage in a formal consultation process.</p> <p>Notwithstanding this, it is Council practice to allow a short period of time for our local residents and amenity groups to comment should they choose to do so. As such, the details of the application were made available online. No comments have been received during this period.</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"> Supporting documents and images from POHL Architects (agent) received 14/02/2024, asserting that the roof terrace and railings in question have been in existence since 2013 based on estate agent evidence; and that a roof terrace with planters were in situ in 2008 based on images from Google maps. <p>The applicant has also submitted the following drawings:</p> <ul style="list-style-type: none"> Unnumbered site location plan - showing the boundary of the application site outlined in red; 0(11)01 rev dP1 – existing site plan 0(12)00 rev dP1 – existing roof plan 0(12)01 rev dP1 – existing 3rd floor plan 			

- 0(14)01 rev dP1 – existing front elevation
- 0(14)02 rev dP1 – existing rear elevation
- 0(14)03 rev dP1 – existing side elevation
- 0(14)03 rev dP1 – existing elevations (combined)

Council's Evidence

There is the following planning history relevant to the proposal at the subject site:

- **2007/6198/P** - Installation of dormer windows to front, side and rear to provide additional floorspace for the second floor flat. Planning permission granted 12/02/2008.

There is the following enforcement history relevant to the proposal at the subject site:

- **EN08/0077** - Works to roof. Case closed 04/03/2008 – planning permission granted for works (ref. 2007/6198/P).

Additional information:

- The Council's Geographic Information System (GISMO) provides aerial images from 2012 which show works completed at roof level which appear consistent with those that are the subject of this application and as shown on drawings submitted by the applicant.

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 (National Planning Practice guidance). 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, a roof terrace above 3rd floor level has existed for more than four years before the date of this application, and has continued as such, for a continuous period until the present time.

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

As such, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness