

LDC (Existing) Report		Application number	2024/4679/P
Officer		Expiry date	
Blythe Smith		20/12/2024	
Application Address		Authorised Officer Signature	
Flat C 113 Goldhurst Terrace London NW6 3HA			
Conservation Area		Article 4	
South Hampstead		Article 4 Direction (basements & Heritage and conservation)	
Proposal			
Retention of three rooflights			
Recommendation	Issue Certificate		
<p>Introduction</p> <p>The application site comprises a 3-storey end-terrace building with an attic level. The site is located on the east side of Goldhurst Terrace, and within the South Hampstead conservation area. This application relates to an existing second and attic level residential unit, accessed from the common entrance to the property located on the main street frontage.</p> <p>The property is not listed.</p> <p>The application seeks to demonstrate that, on the balance of probability, the relevant building works 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"> • <u>Decision notice for application ref: 2007/5218/P dated 13/1/2007</u> the existing plans on these plans show the three rooflights • <u>Aerial photograph</u> showing the roof in 20/08/2001 and 19/09/2002 where the roof had the rooflights on the later photograph • <u>Various aerial view screenshots</u> (with date stamps) showing the three rooflights being in situ since 2013 			

The applicant has also submitted the following drawings:

- Unnumbered site location plan - showing the boundary of the application site outlined in red
- 0725/000/01 - as built floor plans
- 0725/000/02 - as built elevations and section drawings

Council's Evidence

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

- **19781** - Change of use to three self-contained flats, including works of conversion. Planning permission granted 31/01/1975
- **2007/5218/P** - The provision of railings, raised parapet and a door [replacing a previously existing window] in connection with the use of rear second floor flat roof as terrace in connection with second and third floor maisonette. Planning permission granted 13/12/2007

There is no relevant enforcement history at the subject site.

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, the relevant building works associated with the rooflights were completed more than four years before the date of this application, and have 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

