

LDC (Existing) Report		Application number	2013/6334/P
Officer		Expiry date	
Tessa Craig		02/01/2014	
Application Address		Authorised Officer Signature	
17A Bartholomew Road London NW5 2AH			
Conservation Area		Article 4	
Bartholomew Estate		No PD afforded	
Proposal			
Existing window to ground floor rear elevation.			
Recommendation:		Approve	
<p>The application site is located on the south side of Bartholomew Road and comprises a two storey property with a basement level and includes two flats. The property that is subject of this permission is 17A- the basement and ground floor flat.</p> <p>The application relates to a window in the rear elevation at basement level.</p> <p>The building is not listed and is located in the Bartholomew Estate Conservation Area.</p> <p>The application seeks to demonstrate that the basement level window has existed at this location for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing window has existed for a period of 4 or more years.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> Sworn affidavit that the window has been in place for at least 5 years, that it likely dated from the 1990s and has been in place at least since the lease was bought by the applicant in 2011. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> A site location plan outlining the application site and the location of the window, photos of the window. 			

Council's Evidence

A search of Council planning records reveals a planning permission (2004/0184/P) showing the subject window in 'existing' plans of the rear elevation (Rear Elevation, dated 26/2/04, Sh 2 of 5). There is no relevant enforcement action on the subject site.

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). 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, combined with Council records is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the basement level window has existed for a period of more than 4 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve Certificate of Lawfulness