

LDC Report	24/07/2013
Officer	Application Number
Carlos Martin	2013/2974/P
Application Address	Recommendation
Trevor Roberts Preparatory School 55-57 Eton Avenue London NW3 3ET	Grant
1st Signature	2nd Signature (if refusal)
Proposal	
Use of site as a non-residential school (Class D1).	
Assessment	
<p>The application site is located on the south side of Eton Avenue, within the Belsize Conservation Area. It comprises two buildings, of which no. 57 is Grade II listed.</p> <p>The application seeks to demonstrate that the use of the site as a non-residential school (Class D1) begun more than 10 years ago 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 use has been operating continuously for a period of 10 or more years.</p>	
Applicant's Evidence	
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • A statutory declaration from Mr James Grey, the finance director of the school since 1993, stating that the school started operating at no. 57 in 1981 and at no. 55 in 1994. • A statutory declaration from Ms Amanda Trevor-Roberts, a teacher at the school, stating that the school started operating at no. 57 in 1980 and at no. 55 in 1995. • A statutory declaration from Mr Simon Trevor-Roberts, Headmaster of the school, stating that the school started operating at no. 57 in 1981 and at no. 55 in 1994. • A supporting statement containing: <ol style="list-style-type: none"> 1. a planning permission from 1981 for the use of no. 57 as premises for tutorial classes and residence; 2. a statutory declaration from Mr Christopher Trevor Roberts, Principal of the school; 3. a statutory declaration from Ms Mary Lambert; 	

4. a statutory declaration from Mr William Dixon Leefe;
5. floor plans for no. 55;
6. a page from Tatler magazine from 2012 speaking about the school;
7. an inspection report of the school dated 2006;
8. an inspection report of the school dated 2010;
9. a certificate of incorporation on change of name from 2006;
10. a letter from the Independent Schools Association.

The applicant has also submitted the following plans:

- A site location plan outlining the application site;
- A site plan;
- An existing lower ground floor plan;
- An existing ground floor level plan;
- An existing first floor level plan;
- An existing second floor level plan.

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.

Having done a business search and a company house search, 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 use of the site as a school (class D1) begun more than 10 years ago as required under the Act. Furthermore, the Council has no evidence to contradict or undermine the applicant’s version of events.

Recommendation: Approve