

<b>LDC Report</b>		15/04/2013
<b>Officer</b>		<b>Application Number</b>
Rachel Miller		2013/0952/P
<b>Application Address</b>		<b>Recommendation</b>
20D Ospringe Road London NW5 2JE		Approve
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>		
Certificate of lawfulness (existing) for retention of a rooflight to rear roof slope in connection with residential flat (Class C3)		
<b>Assessment</b>		
<p>The application site is an end-of-terrace building located on the north side of Ospringe Road. The building contains four residential flats.</p> <p>The application relates to a rooflight on the rear roofslope. There is already a small rooflight over the stairs and dormer window on the rear roofslope however this application relates to the large rooflight only.</p> <p>The building is not listed and is not located in a Conservation Area.</p> <p>The application seeks to demonstrate that a rooflight has existed on the rear roofslope of 20 Ospringe Road 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 residential unit has existed for a period of 4 or more years.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• An aerial photograph that shows the rooflight in existence.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• A site location plan outlining the application site</li> <li>• A roofplan showing the rooflight</li> <li>• A section drawing showing the rooflight</li> </ul>		

- A rear roofplan showing the rooflight

### **Council's Evidence**

There is no relevant planning history or enforcement action on the subject site. The Council's aerial photographs from 2007 and 2012 show the large rooflight in the same location on the rear roofslope.

### **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 is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the large rooflight on the rear roofslope 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**

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