

<b>LDC Report</b>	14/09/2012
<b>Officer</b>	<b>Application Number</b>
Fergus Freeney	2012/3829/P
<b>Application Address</b>	<b>Recommendation</b>
17 Alma Street London NW5 3DJ	Grant
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Retention of three storey rear extension to a single family dwelling house (Class C3).	
<b>Assessment</b>	
<p>The application site is located west side of Alma Street.</p> <p>The application relates to a three storey rear extension at a single family dwelling.</p> <p>The building is not listed and is located in the Inkerman Conservation Area.</p> <p>The application seeks to demonstrate that the 3 storey extension has existed for a period of 4 years or more to be exempt from enforcement action and therefore lawful.</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>• A sworn affidavit from a neighbour dated 10<sup>th</sup> July confirming that the extension has been in place for approximately 30years.</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>• Existing plans, elevations and sections.</li> </ul> <p><b>Council's Evidence</b></p> <p>There is no relevant planning history or enforcement action on the subject site.</p> <p>Aerial photos taken in 2007 and held by the Council confirm that the extension has been in place for more than 4 years.</p>	

## **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 lower ground floor unit has existed in residential use 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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