

<b>LDC Report</b>		17/12/2009
<b>Officer</b>		<b>Application Number</b>
John Sheehy		2009/4988/P
<b>Application Address</b>		<b>Drawing Numbers</b>
Flat C 84 Chenies Mews London WC1E 6HU		Refer to draft decision notice.
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>Authorised Officer Signature</b>
<b>Proposal</b>		
Retention of air conditioning unit on the roof of existing dwellinghouse (Class C3).		
<b>Recommendation: Issue Certificate of Lawfulness</b>		
<b>Assessment</b>		
<p>The site is located on the eastern side of Chenies Mews. The building on the site is a terraced property three storeys in height, which is divided into 4 self-contained flats.</p> <p>The application for a certificate of lawful development relates to an existing external Air Conditioning Unit located at the rear first floor of the property.</p> <p>In assessing an application for a certificate of lawful development the onus of proof lies with the applicant. The relevant test of the evidence is 'the balance of probability'; the applicant is not required to discharge the stricter, criminal burden of proof, namely 'beyond all reasonable doubt'.</p> <p>If the local planning authority does not have evidence of its 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 alone is sufficiently precise and unambiguous. 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.</p> <p><b>Applicant's Evidence</b></p> <p><b>The applicant has provided the following evidence:</b></p> <ul style="list-style-type: none"> <li>Statutory Declaration from Howard Stacks dated 14<sup>th</sup> August 2009. Mr Stacks stated that he occupied the property from 18 September 1997 to 9 October 2007; he stated that the external Air Conditioning Unit was installed in 1999 and remained in position until the sale of the property in October 2007.</li> </ul>		

- Statutory Declaration from George Habgood dated 8<sup>th</sup> October 2009. Mr Habgood stated that he bought Flat 84d Chenies Mews on 22 August October 2000 and has occupied the flat since then; he stated that the external Air Conditioning Unit has been in its current location since he purchased the property;
- Statutory Declaration from James Crockatt dated 29<sup>th</sup> September 2009. Mr Crockatt stated that his family bought Flat 84a Chenies Mews on 15 December 2003 and has occupied the flat since then; he stated that the external Air Conditioning Unit has been in its current location since he purchased the property;
- Statutory Declaration from Alastair Ross dated 9<sup>th</sup> October 2009. Mr Ross stated that he has been the owner and occupier of Flat 84b Chenies Mews since August 1997; he stated that the external Air Conditioning Unit has been in its current location since he purchased the property;
- Statutory Declaration from Robert Moore dated 9<sup>th</sup> October 2009. Mr Moore stated that he has been the owner and occupier of Flat 84b Chenies Mews since 10 October 2007; he stated that the external Air Conditioning Unit was in its current position when visited the property in June 2007 and has been in its current location since he purchased the property in October 2007.

The Statutory Declarations are accompanied by photographs of the Air Conditioning unit.

- Letter from Toru Sugiyama of Fuji Denki Sosetsu Co. dated 22 July 2009 which states that the air conditioning unit at the application site was manufactured in May 1999 and that production of this model of Air Conditioning Unit stopped in February 2004;
- Letter from Janet Morgan of Grosvenor International Estate Agents which states that the Air Conditioning Unit was installed in 1999 and has remained in its current location since installation;
- Aerial Photographs from BlueSky International Limited taken in February 2005 (accompanied by a letter of authenticity) indicating the Air Conditioning Unit in its current location;
- Photographs from Architect's Survey dated March 2008 (with related email exchange) indicating the Air Conditioning Unit in its current location;
- Photographs from submitted for Listed Building Application dated May 2009 indicating the Air Conditioning Unit in its current location;
- Photographs taken from [www.192.com](http://www.192.com) and GoogleEarth, not dated, indicating the Air Conditioning Unit in its current location.

### **Council's Evidence**

Officers have found no evidence of enforcement action undertaken at any stage against the Air Conditioning Unit.

### **Conclusion**

The Council's evidence does not contradict or undermine the applicant's version of events. Furthermore, the information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the Air Conditioning Unit has been in position for a period of more than 4 years as required under the Act.

**Recommendation:** Issue Certificate.

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