

LDC Report

(Existing)

Officer		Application Number	
Tessa Craig		2014/4562/P	
Application Address		Recommendation	
25 Aberdare Gardens London NW6 3AJ		Grant Lawful Development Certificate	
1st Signature		2nd Signature (if refusal)	
Proposal			
Single storey rear extension			
Assessment			
<p>The application site is located on the north side of Aberdare Gardens and comprises a semi-detached two storey brick property. The application relates to an existing single storey rear extension. The building is not listed and is located in the South Hampstead Conservation Area.</p> <p>The application seeks to demonstrate that the extension has existed for a period of 4 years or more such that the continued use would not require planning permission.</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">• Real estate brochure with mention of extension (no date);• Surveyors letter dated 21.06.10 which states 'provision of rear extension' <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none">• A site location plan outlining the application site• Floor plans/elevations – drawing no.14/25AG/00 and 14081 <p>Council's Evidence</p> <p>A search of the Council planning records revealed two relevant applications:</p> <ul style="list-style-type: none">• TPD947/589- The erection of a temporary conservatory at the rear of the ground floor, granted 03/01/1963.• CTP/H5/8/4/3408- Retention of conservatory, granted, 12/04/1967.			

Aerial photos of the site show the extension has been there since at least 2002. It would appear the conservatory was replaced by the rear extension which is the subject of this certificate of lawfulness. Furthermore, records held by the Building Control department indicate that 'refurbishment and rebuild' works were completed at the property in 2001.

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 single storey rear extension has existed in 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