

LDC Report	30/07/2015
Officer	Application Number
Barry Dawson	2015/3123/P
Application Address	Recommendation
255 West End Lane London NW6 1XN	Grant Certificate of Lawfulness
1st Signature	2nd Signature (if refusal)
Proposal	
Continued use as a hot food takeaway (Class A5)	
Assessment	
<p>The application site is located on the west side of West End Lane. The building is not listed but in the West End Green Conservation Area.</p> <p>The application relates to the basement and ground floor.</p> <p>The building is not listed and is located in the West End Green Conservation Area.</p> <p>The application seeks to demonstrate that the A5 use class (Hot food takeaway) has existed for a period of 10 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"> • A lease dated 12 March 2004 • A trading statement confirming the site has been trading as a pizza delivery store from 2005 • A statutory declaration • A board update containing figures from 2005 <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site <p>Council's Evidence</p>	

The council has no evidence that contradicts the applicant's submission.

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