

<b>LDC Report</b>	11/09/2015
<b>Officer</b>	<b>Application Number</b>
Tony Young	2015/3911/P
<b>Application Address</b>	<b>Recommendation</b>
Flat 2 192 Goldhurst Terrace London NW6 3HN	Grant Certificate of Lawfulness (Existing)
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
External decked terrace with steps, railings and French door at rear 1st floor level.	
<b>Assessment</b>	
<p>The application site is located at the western end of Goldhurst Terrace, and sits between Priory Road to the west and Fairhazel Gardens to the east.</p> <p>The building is not listed but is in the South Hampstead Conservation Area.</p> <p>The application seeks to demonstrate that on the balance of probability the external decked terrace with steps, railings and French door at rear 1st floor level were substantially completed more than 4 years before the date of the application, such that continued use would not require planning permission.</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>• Statutory declaration from Deborah Jill Suzanne Laniado (applicant and joint freeholder of 192 Goldhurst Terrace) dated 08/04/2015 co-signed by a solicitor, asserting that works were completed on or before February 2009;</li> <li>• Statutory declaration from Dr. Colin Crosby (joint freeholder of 192 Goldhurst Terrace and occupier of Flat 1) dated 08/04/2015 co-signed by a solicitor, asserting that works were completed in or around February 2009;</li> <li>• Statutory declaration from Angus William Carlton Gillard (building contractor) dated 13/03/2015 and co-signed by a solicitor, asserting that works were completed around February 2009;</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> </ul>	

- Rear elevation, section and terrace plan (ref. 1513/TP/01)

### **Council's Evidence**

There is relevant planning history but no relevant enforcement action on the subject site.

9300744 - The erection of single storey rear extension to ground floor flat and alterations to the roof of the existing rear extension. Granted 26/08/1993

9500435 - Insertion of French doors to replace windows at front second floor level. Refused 03/05/1996

P9601529 - Insertion of French doors to replace windows at front second floor level and installation of safety rail across window opening. Granted 14/06/1996

### **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. All the statutory declarations state that that works were completed more than 4 years ago.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the external decked terrace with steps, railings and French door at rear 1st floor level were substantially completed more than 4 years ago as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Approve**