

LDC Report	17/08/2015
Officer Jonathan McClue	Application Number 2015/0305/P
Application Address 141 Camden High Street London NW1 7JR	Recommendation Grant Certificate
1st Signature	2nd Signature (if refusal)
Proposal Commencement of works in accordance with condition 1 (within five years from date of permission) of planning permission 2004/0730/P granted 15/04/2004 for 'Conversion of upper floors to 2 self-contained flats and demolition of rear buildings and reconstruction for retail (Class A1) use.'	
Relevant Planning History 2004/0730/P - Conversion of upper floors to 2 self-contained flats and demolition of rear buildings and reconstruction for retail (Class A1) use. Granted 15/04/2004 EN06/0812 – Planning enforcement case to investigate whether the first floor extension was built in accordance with permission 2004/0703/P. A site visit was made on 26/02/07 to inspect the extension and no further action has been made since.	
Assessment Permission is sought for a Certificate of Lawful Development to confirm that the commencement of planning permission 2004/0730/P granted on 15/04/2004 occurred before the expiration of the approval on 15/04/2009. Planning permissions may be kept alive indefinitely (i.e. remain legally extant and capable of full implementation) if works or actions to implement them have commenced. Provision is made in Section 56 of the Town and Country Planning Act 1990 that development may be taken as begun when a 'material operation' begins to be carried out. Material operations are listed at section 56(b) as: “(a) any work of construction in the course of the erection of a building; (aa) any work of demolition of a building; (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building; (c) The laying out of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b); (d) Any operation in the course of laying out or constructing a road or part of a road; (e) Any change in the use of any land which constitutes material development.”	

Circular 10/97 explains that the burden of proof in applications under Section 192 of the Town and Country Planning Act 1990 lies firmly with the applicant.

The applicant has submitted evidence that the demolition works and the two storey rear extension, which formed part of the development, were substantially completed before 15/04/2009. The submitted evidence includes correspondence with the London Borough of Camden Building Control which confirms that a full application for Building Regulations was submitted and considered. Camden's records indicate that the two storey rear extension commenced on 26/06/2006 ref: 06/2/0375. The applicant states that the two storey rear extension was completed in late 2007 with the ground floor element being used as an extended A1 unit and the first floor as a residential flat. Supporting documents have been submitted. The Council's planning enforcement team investigated a complaint regarding whether the two storey rear extension was constructed in accordance with the approved plans ref: EN06/0812. A site visit was made on 26/02/07 to inspect the extension which confirms that the works had commenced by this date.

Circular 10.97 goes on to state that the relevant legal test to consider when evaluating the evidence 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 applicants' evidence is sufficiently precise and unambiguous to justify the grant of a certificate.

The key point for consideration is whether the works that have taken place on site constitute a material operation sufficient to have lawfully implemented the planning permission. The evidence submitted is considered sufficient to show that the scheme, comprising the conversion of upper floors to 2 self-contained flats and demolition of rear buildings and reconstruction for retail, has commenced in line with section 56 (b).

Recommendation: Grant Certificate