

LDC Report		12/01/2016	
Officer		Application Number	
Tony Young		2015/6444/P	
Application Address		Recommendation	
2nd Floor Flat (Top Floor) 41 Lancaster Grove London NW3 4HB		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Erection of rooftop enclosure with timber framed door and window panels housing a spiral access staircase.			
Assessment			
<p>The application site is located on the north side of Lancaster Grove between Lancaster Drive to the west and Lambolle Place to the east.</p> <p>The building is not listed but sits within the Belsize Park Conservation Area.</p> <p>There are Article 4 Directions within Belsize Park Conservation Area (effective 1 September 2010) removing certain permitted development rights from houses and flats within the conservation area. However, these do not involve the works that are the subject of this application.</p> <p>The application seeks to demonstrate that on the balance of probability the building works to erect the rooftop enclosure were substantially completed more than four years before the date of this application such that its' retention 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"> • Cover statement from Neil Rigden (agent) dated November 2015), asserting that the rooftop enclosure has existed since at least 2001. • Statement from Braden Harris (applicant and co-owner) dated 03/11/2015, asserting that the rooftop enclosure has been in situ since May 2001 and has remained unaltered since this time. • Building survey from Slocock Collings (building surveyors) dated 14/05/2001, referring to an access enclosure at roof level and providing a photograph from the same date. 			

The applicant has also submitted the following plans:

- A site location plan outlining the application site;
- Existing roof plan, elevations, section and photographs (ref. LG.BP.01) dated October 2015.

Council's Evidence

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

27141 - Alterations to roof including the construction of the new dormer. Granted planning permission 04/12/1978

9502003 - The erection of an exterior stair to upper ground flat, together with the installation of a door and fanlight window in the side elevation at upper ground floor level. Granted planning permission 27/02/1996

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 (Planning Practise Guidance para. 006), 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 statements and building survey demonstrate that the rooftop enclosure has been in existence since at least May 2001 and has remained unaltered until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the building works to erect the rooftop enclosure were substantially completed more than four years before the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve