

<b>LDC Report</b>	12/04/2016
<b>Officer</b>	<b>Application Number</b>
Laura Hazelton	2016/0423/P
<b>Application Address</b>	<b>Recommendation</b>
144a Clerkenwell Road London EC1R 5DF	Approve
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Retention of 5 x air conditioning units at roof level.	
<b>Assessment</b>	
<p>The application site is located at the end of a small cul-de-sac off Clerkenwell Road. The subject building is a 3-4 storey office block flanked by larger 4-5 storey commercial buildings.</p> <p>The application relates to 5 x air conditioning units at roof level.</p> <p>The building is not listed and is located within the Hatton Garden Conservation Area.</p> <p>The application seeks to demonstrate that the air conditioning units have been in position on the rooftop for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing plant equipment has existed for a period of 4 or more years.</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>• 4 x witness statements from past and current employees confirming the installation and position of the air conditioning units;</li> <li>• Invoices relating to the works associated with installation of the air conditioning units dated 2007;</li> <li>• Air conditioning servicing and maintenance logs from 2012 – 2015.</li> <li>• Email correspondence from 2007 discussing the installation of an extra unit to the front elevation plant area and a plan identifying the proposed location of the fourth unit and the three existing units in this location.</li> </ul>	

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- A roof plan showing the location of the 5 air conditioning units.

### **Council's Evidence**

There is a current enforcement case regarding the 5 air conditioning units at roof level. The original complaint refers to the two air conditioning units to the rear of the roof developing a fault and becoming noisy rather than the installation of the units.

### **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 works 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 lawful development certificate**