

Delegated Report	Analysis sheet	Expiry Date:	05/10/2016
	N/A / attached	Consultation Expiry Date:	

Officer	Application Number(s)
John Diver	2016/4455/P

Application Address	Drawing Numbers
94 Camden High Street London NW1 0LT	See draft decision notice.

PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature

Proposal

Retention of existing mechanical extraction / ventilation system to ground floor unit

Recommendation(s):	Granted
Application Type:	Certificate of Lawfulness (Existing)
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice
Informatives:	

Site Description

The subject building is a 4 storey property used for commercial purposes fronting Camden High Street, close to the junction with Pratt Street. The application site relates to a commercial unit at ground and lower ground floor levels whose lawful use is as a bakery/sandwich shop (A1). The building is not listed but is situated within the Camden Town Conservation Area.

The application relates to mechanical extraction / ventilation system which was installed for the on-going purposes of the bakery use on the property without prior planning consent.

The application seeks to demonstrate that the extraction unit have been in position on the property for a period of 4 years or more such that the continued use would not require planning permission. As such the applicant is required to demonstrate, on balance of probability that the existing equipment has existed in situ for a period of 4 or more years.

Relevant test

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 of the evidence on such matters is 'the balance of probability', the applicant is not required to discharge the stricter, criminal burden of proof, namely 'beyond all reasonable doubt'. The

local planning authority is advised that if it has no evidence of its own to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application provided the applicant's evidence alone is sufficiently precise and unambiguous. 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 such an application.

In light of this, the evidence needs to demonstrate that the extraction/ventilation equipment has been in place continually for at least a period of 4 years prior the date of the submission of the certificate (10th August 2012).

Assessment

1. The Applicant's Evidence

1.1. The applicant has submitted the following documentation as part of their application:

- A site location plan outlining the boundary of the site.
- A floor plan showing the positioning of the existing equipment.
- Photographs of the equipment in situ
- A Planning Statement outlining the history of the works
- Sworn affidavits stating that the existing equipment has been in situ and in continuous use for a period exceeding 4 years from the following persons:
 - Abdellah Kadiri (employee – pastry chef)
 - Jose Parro Coelho (employee - baker)
 - Meril Halil (employee – front of house) and
 - Birol Akdeniz (employee - baker)

2. Assessment:

2.1. In order to defend the applicant's version of events, sworn affidavits have been submitted from four employees of the business which states that the existing equipment has been in situ and in continuous use for a period exceeding 4 years, corroborating the submitted planning statement.

2.2. The submitted plans accord with the equipment as observed on site on the 12/09/2016 and the Council does not have any evidence to contradict or undermine the applicant's version of events. As a total of four sworn statements have been submitted, all of which accord, the Council must afford considerable weight to this evidence.

2.3. The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the mechanical extraction / ventilation system has existed in situ 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.

2.4. It is therefore considered that the applicant's evidence satisfactorily demonstrates that the existing mechanical extraction / ventilation system have been in place for at least 4 years.

3. Conclusion:

3.1. The evidence submitted demonstrates that on the balance of probability, the mechanical extraction / ventilation system have been in place continually for a period of at least four years.

4. Recommendation: The application for a certificate of lawfulness should be granted.