

LDC Report	04/10/2016
Officer	Application Number
John Diver	2016/4322/P
Application Address	Recommendation
300 Kentish Town Road London NW5 2TG	Approve
1st Signature	2nd Signature (if refusal)
Proposal	
Retention of no.3 existing windows to south elevation of first floor residential unit (C3)	
Assessment	
<p>The application site comprises a first floor flat to the rear of 300 Kentish Town Road, situated above a ground floor commercial unit which fronts Leverton Place. The unit is set away from Leverton Place leaving a sizable raised terrace enclosed by metal railings and bamboo/reed screening.</p> <p>The site is within the Kentish Town Conservation Area. The Kentish Town Conservation Area Appraisal and Management Strategy (2011) lists 300 Kentish Town Road as being a positive contributor to the character of the conservation area.</p> <p>The application seeks to demonstrate that the no.3 windows to the South elevation have existed in situ for a period of 4 years or more such that the continued use would not require planning permission. The applicant is required to demonstrate, on balance of probability that the existing no.3 South facing windows have existed for a period of 4 or more years.</p>	
Applicant's Evidence	
The applicant has submitted the following information in support of the application:	
<ul style="list-style-type: none"> • Martyn Gerrard Estate Agents property brochure dated 27/02/2010; • Sworn Affidavit from Houshang Sakhai (freeholder) dated 13/10/2016. 	
The applicant has also submitted the following plans:	
<ul style="list-style-type: none"> • A site location plan outlining the application site (0050_PL_000); • Existing plans, elevations and sections (0050_PL_001); 	

Council's Evidence

No evidence of the contrary.

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.

The corroborating information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the no.3 windows to the South elevation have existed in situ for a period of 4 years or more as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve