

<b>LDC Report</b>	19/12/2016
<b>Officer</b>	<b>Application Number</b>
Matthias Gentet	2016/4357/P
<b>Application Address</b>	<b>Recommendation</b>
31 Marchmont Street London WC1N 1AP	Approve
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Retention of 6no spotlights located above the shop fronts, one awning, 4no heaters, Wooden planters on top of shop front on elevations, a satellite dish, and spotlight and sensor lights.	
<b>Assessment</b>	
<p>The application site is located to the southern end of Marchmont Street, sitting opposite the Grade II Listed Brunswick Centre, on the corner of Marchmont Street with Coram Street. The site is a 3-storey plus cellar public house with a private forecourt on Coram Street side of the building over which the awnings and heaters which form part of this application are located.</p> <p>The application relates to a variety of fixtures: 6no spotlights located above the shop fronts, one awning (the other has deemed consent due to the small advertisement on the valance), 4no heaters, Wooden planters on top of shop front on elevations, a satellite dish, and spotlight and sensor lights.</p> <p>The building is not listed and is located in the Bloomsbury Conservation Area.</p> <p>The applicant's cover letter states that the alterations are either not development requiring permission or items that have been in position for more than four years and are thus immune from enforcement action. While the applicant refers to permission not being required, the evidence they provided is in relation to the items:</p> <ul style="list-style-type: none"> <li>• six spotlights located above the shop fronts,</li> <li>• one awning</li> <li>• four heaters</li> <li>• wooden planters on top of shop front on elevations</li> <li>• one satellite dish at second floor of Coram St elevation;, and</li> <li>• spotlight and sensor light.</li> </ul> <p>In order for the Certificate of Lawfulness to be issued, the applicant is required to demonstrate, on balance of probability that the above items have been in position for a period of 4 or more</p>	

years.

### **Applicant's Evidence**

The applicant has submitted the following information in support of the application:

- Covering Letter;
- Doc 2 - 12th Jan 2012 Invoice;
- Doc 4 - Photographs submitted with application 2006/4105/P.

The applicant has also submitted the following plans from a 1996 application A9604168

- A site location plan outlining the application site - 8360-100-00;
- 3923-200 RevD – Existing elevations;
- Doc 1 - Drawing submitted with application A9604168;
- Doc 3 - Drawing submitted with application 2006/2864/P.

### **Council's Evidence**

There is an enforcement case reference: EN15/1227 which was opened in relation to the awnings, 6no floodlights and on spotlight, 17no the timber planters, 4no heaters, the free standing pole with the externally illuminated projecting sign, internally illuminated menu box, 2no satellite dishes, a free standing internally illuminated menu sign.

A planning application reference: 2006/2866/A for a projecting sign was granted advertisement consent. However, subsequently, the projecting was altered without the required permission having been sought. The planning history or enforcement action on the subject site.

Application reference: 2015/6563/A for the display of an externally illuminated projecting sign, 2 x internally illuminated lettering fascia sign and 2 x internally illuminated menu box on both side of entrance door has just been granted advert consent.

An original site visit to the property was undertaken in November/December 2015 in relation to the advertisement consent application referred to above. Further site visits have taken place to assess the various alterations which form part of this application, as well as monitoring the removal of some unauthorised fixtures. The officer was satisfied that the items/fixture had been in place for quite some time and use as stated by the information submitted.

### **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 information provided by the applicant is sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the following items have been in place for over 4 years continuously and are therefore immune from enforcement action:

- six spotlights located above the shop fronts, - shown on Document 4, photograph submitted with application 2006/4105/P, submitted 6<sup>th</sup> of September 2006.
- one awning: invoice dated 12<sup>th</sup> of January 2012 showing that the awning was ordered on this date. Photographic evidence (Google streetview dated June 2012) confirms that the awning which the invoice relates to was installed by Summer 2012.
- four heaters: cover letter states that they were installed in 2007. Photographic evidence (Google streetview maps dated June 2012) confirms these were in place in Summer 2012
- wooden planters on top of shop front on both elevations, shown on Document 4, photograph submitted with application 2006/4105/P, submitted 6<sup>th</sup> of September 2006.
- one satellite dish at second floor of Coram St elevation: - shown on Document 4, photograph submitted with application 2006/4105/P submitted 6<sup>th</sup> of September 2006.
- spotlight and sensor light: spotlight shown on Document 4, photograph submitted with application 2006/4105/P submitted 6<sup>th</sup> of September 2006. Sensor light: photographic evidence (Google streetview maps dated June 2012) confirms this was in place in Summer 2012

Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Approve**

