

<b>LDC Report</b>		08/05/2017	
<b>Officer</b>		<b>Application Number</b>	
Charlotte Meynell		2017/1469/P	
<b>Application Address</b>		<b>Recommendation</b>	
6 Lyme Terrace London NW1 0SN		Grant Certificate	
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>			
Use of the existing second floor flat roof as a roof terrace with associated pergola, metal railings and metal access stair.			
<b>Assessment</b>			
<p>The application site is located on the northern side of Lyme Terrace and comprises of a flat at upper ground, first and second floor levels.</p> <p>The application relates to the use of the second floor flat roof as a terrace, with associated metal access stairs, metal railings to the front and north-eastern side and covered wooden pergola to the rear.</p> <p>The building is not listed and is located in the Regent's Canal Conservation Area.</p> <p>The applicant is required to demonstrate, on balance of probability that the roof has been used as a terrace and that the associated access stair, railings and pergola has existed for a period of 4 years or more such that the continued use would not require planning permission.</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>• Statement in support of the existing use including current photographs of the roof terrace;</li> <li>• Sworn affidavit from Francis Lyon dated 03/02/2017;</li> <li>• Estate agent particulars of the property from 2006 including photographs of the roof terrace;</li> <li>• Estate agent photographs of the roof terrace from 2012.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• A site location plan;</li> <li>• As existing drawings – Front and Rear Elevations, Sections AA and BB, Roof Plan.</li> </ul>			

## Council's Evidence

Photograph evidence from 2012 (shown below) showing planting around the roof over the front and side railings and rear pergola.

## 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 has evidence which supports the applicant's version of events, in the form of a photograph from 2012 which shows foliage along three sides of the roof and across the rear section. This corresponds with the current photos and plans and estate agent photographs from 2006 and 2012 which show planting over the railings and a pergola to the front, rear and north-east side of the roof.



The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the second floor roof has been used as a terrace and that the metal access stair, metal railings and wooden pergola have been in existence 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: Grant Certificate of Lawfulness (Existing)**