

LDC Report	29/09/2016
Officer	Application Number
Matthias Gentet	2016/4327/P
Application Address	Recommendation
Edinboro Castle PH 57 Mornington Terrace LONDON NW1 7RU	Approve
1st Signature	2nd Signature (if refusal)
Proposal	
Retention of 2 free-standing 'market stalls' with brown PVC canopies in the side customer garden to public house (Class A4).	
Assessment	
<p>The application site is located at the north-eastern end of Mornington Terrace, backing onto the railway tracks. The site is a 3-storey plus cellar public house with a beer garden area to the side which is the subject of this application.</p> <p>The application relates to 2 free-standing 'market stall' marquees with brown PVC covers in the side customer garden.</p> <p>The building is Grade II listed and is just outside of Camden Town Conservation Area.</p> <p>The application seeks to demonstrate that the free standing marquees have been in position 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 residential unit has existed for a period of 4 or more years.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Invoice of the brown free-standing marquees dated 27/07/2009; • Minute of a meeting taking place on 01/11/2006 discussing various points including the 2 free standing marquees; • Cover letter dated 03/08/2016 to be used as a planning statement; • Photos of the original structures in white PVC, and of its replacement and current structures in brown PVC. 	

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- 4 x floor plans showing the garden area between 29/10/2005 to 17/03/2006

Council's Evidence

There is an enforcement case reference: EN15/0901 was opened in relation to temporary structures in the side garden which subsequently closed. These structures are not related to permanent free-standing marquees that are the subject of this application.

A site visit to the property was undertaken at the end of August following the registration of the application. The officer was satisfied that the unit had been in place for quite some time and used 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 deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the free-standing marquees have been erected and used as an ancillary customer area to the public house 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