

13 Gloucester Crescent 2017/5613/P



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Photo 1 - Existing two storey rear conservatory extension at 13 Gloucester Crescent



Photo 2 - Existing two storey conservatory extension at 13 Gloucester Crescent



Photo 3 - Photo of extension at the site also showing the neighbouring extensions at no. 14 Gloucester Crescent.



Photo 4 - Photo of neighbouring property at 12 Gloucester Crescent

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:		04/12/2017			
		N/A		Consultation Expiry Date:		N/A			
Officer				Application Number(s)					
Robert Lester				2017/5613/P					
Application Address				Drawing Numbers					
13 Gloucester Crescent London NW1 7DS				Refer to Draft Decision Notice					
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature			
Proposal(s)									
Retention of two storey rear conservatory extension									
Recommendation(s):		Grant certificate							
Application Type:		Certificate of Lawfulness							
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice							
Informatives:									
Consultations									
Adjoining Occupiers:				No. of responses		0	No. of objections		0
Summary of consultation responses:		No consultation was undertaken on this application. There is no statutory requirement to consult third parties or neighbours on certificates of lawfulness applications.							
CAAC/Local groups* comments:		<u>Primrose Hill CAAC</u> They have no record of this major work to a Listed Building. If the application were made now, we would strongly object. Recent planning appeals in the area suggest that such changes are not found appropriate in the conservation area (11 Regent's Park Road, 2016/2247/P). <i>Case Officer's Response: The assessment of a Lawful Development Certificate is based on the evidence provided to show that enforcement action can no longer be taken against the development. It is not based on the planning merits of the development.</i>							

Site Description

The site is located at 13 Gloucester Crescent and contains a mid-terraced Victorian dwellinghouse. The dwelling has a two storey rear conservatory extension which is the subject of this application.

The property is a Grade II Listed Building (group listed with numbers 3-22 (Consecutive) Gloucester Crescent. The site is also located in the Primrose Hill Conservation Area. The terrace was listed 23/03/1998.

Relevant Planning History

CTP/J11/11/7/3051 - The erection and retention for a limited period of a garden shed at the rear - Granted - 01/02/1967.

CTP/J11/11/7/8462 - Retention for a further limited period of a garden shed at the rear - Granted - 03/04/1970.

CTP/J11/11/7/17322 - Retention for a further limited period of a garden shed at the rear - Granted - 13/06/1974.

CTP/J11/11/7/25190 - Retention of the rear garden shed – Granted - 12/10/1977.

CTP/J11/11/7/32879/R - The enlargement of the existing rear extension - Refused - 27/11/1981.

CTP/J11/11/7/33365 - Alterations and enlargement of existing rear extension - Granted - 11/01/1982.

CTP/J11/11/7/33415 - Alterations to the existing rear extension (Lawful development) – Refused 18/02/1982.

Relevant policies

N/A

Assessment

1. Application Description

1.1 This application is a certificate of lawful development for existing development for the retention of the two storey conservatory extension at this site.

2. Relevant Legislation and Guidance

2.1 Section 191 of the Town and Country Planning Act (1990) sets out the regulations for certificates of lawfulness for existing development. A person can apply for a certificate of lawfulness for existing development to ascertain whether any operations which have been carried out in, on, over or under land are lawful. Operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason). Section 171B of the Town and Country Planning Act (1990) sets the time limits for enforcement action and states that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed

2.2 The National Planning Practice Guidance sets out Government guidance for certificates of lawfulness for existing development. This states that in the case of applications for existing use or development, if a local planning authority has no evidence itself, nor any from others, 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 to justify the grant of a certificate on the balance of probability. A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in the assessment of this particular type of application. There is no statutory requirement to consult third parties or neighbours on certificates of lawfulness applications.

3. List of Submitted Evidence

3.1 The following evidence was submitted in support of this application

- OS Location Plan.
- As Built Drawings ref: 13GC2017/SK01.
- Certificate of Lawfulness – Supporting Statement.
- Affidavit of Mr Chog Burley (property owner) with appendices A-C.
- 2017 Photographs of the site.
- 1980s Photographs of the site
- Planning application history at no. 14 Gloucester Crescent.
- Tree application history at no. 12 Gloucester Crescent.
- 1992 Photograph of the site.
- 1983 Photograph of the site.
- 1986-7 Photograph of the site.
- Affidavit of Michael Sullivan (neighbour)
- Affidavit of Taahra Ghazi (cousin)
- Affidavit of Sam Price (family friend & neighbour)
- Affidavit of Elizabeth Nisbet (neighbour)
- Affidavit of Sarah Burley (wife of Mr Chog Burley).
- Affidavit of Michael Langmead (Surveyor)
- Listing Description dated 23/03/1998
- Planning drawings 1404A & 1406B
- HB/9160101/R2 1991 No 14 Planning Drawings
- 95/2/0297 1995 No 14 Gloucester Crescent Building Control record
- PE9606002 Planning Drawings 1996 No 14 Planning Drawings
- PE9700192R3 Planning drawings 1997 No 14 Planning Drawings
- 2010/6605/T Page 14 of application
- Google Earth archive images
- Structural Plans and Calculations.
- Heating, Electrical Plumbing Plans.
- Building Receipts.

4. Assessment of Submitted Evidence

4.1 Planning permission ref: CTP/J11/11/7/33365 was granted on the 11/01/1982 for alterations to and the enlargement of the existing rear extension at this site. The Council's Decision Notice which granted permission for this extension refers to approved planning drawings 1404A & 1406B. The supporting statement submitted with this application states that this application granted permission for the existing two storey rear conservatory extension at the site which was constructed in the 1980s. However, plans 1404A & 1406B are missing from the Council's planning records for this application. This certificate of lawfulness application has therefore been made to demonstrate the lawfulness of this existing rear extension. The aim of the application is to demonstrate that the rear extension was built before this building was statutorily listed in 1998, meaning listed building consent was not required and that it has not been altered since and is therefore lawful.

4.2 The supporting statement includes a photograph of the rear elevation of no 13 Gloucester Crescent and the neighbouring properties at no's 12 and 14 (the original photographs and negatives have also been submitted). This photograph shows the two storey rear conservatory extension at the site. The applicants supporting statement states that this photograph was taken in the late 1980s,

although the photo itself is not date stamped. The supporting statement refers to the planning history of no 14 Gloucester Crescent to give an indication as to when this photograph was taken. The photo also shows the rear elevation of the neighbouring property at no. 14 Gloucester Crescent and the former two storey rear extension at that site which had a timber construction with staircase and balcony is visible in the picture.

4.3 The applicants supporting statement states that application HB/9160101/R2 was made in 1991 to demolish this extension at no 14 Gloucester Crescent. This application for conservation area consent for demolition was granted on the 12/03/1992. Although not referred to in the applicants supporting statement there was an accompanying planning application granted ref PL/9100877/R2 also granted on the 12/03/1992 for the erection of a part one part two storey rear extension. The applicant also states that a later application was made in 1995 ref: HB/9560134/R1 to demolish this extension at no 14 Gloucester Crescent. This application for conservation area consent for demolition was granted on the 21/09/95. Again, although not referred to in the applicants supporting statement there was an accompanying planning application granted ref PL/9501047/R1 also granted on the 21/09/95 for the erection of a two-storey rear extension at lower and upper ground floor levels with roof terrace above. The applicants supporting statement states that the existing plans in these applications show the same extension at no. 14 as shown in the late 1980s photograph that has been submitted. This information has all been reviewed and it is confirmed that the plans for these applications show the rear extension at no. 14 shown in the submitted photograph.

4.4 The applicants supporting statement then states that building control application 95/2/0297 for the demolition and rebuilding of rear two storey extension at the neighbouring property at no 14 Gloucester Crescent was validated on the 25/04/1995. Details of this are included in the supporting statement and show that work commenced on the 23/02/1996 and was completed on the 04/06/1996. The applicants supporting statement states that the 1980s photograph submitted was taken prior to the demolition of the former neighbour's extension at 14 Gloucester Crescent and concludes that the photograph must therefore predate June 1996.

4.5 Two further planning applications were granted at no. 14 Gloucester Crescent ref's PE9606002 for the change of use and from 3 flats to a single family dwelling granted 18/12/1996 and PE9700192R3 for an additional storey extension to rear addition and erection of a new conservatory; elevation changes plus the excavation at lower ground floor front for storage purposes installation of new railings granted 24/11/1997. The applicants supporting statement states that both of these applications have existing plans that show the new extension which was granted in 1991/1995 and completed in 1996. The applicant therefore states that this is further evidence that the 1980s photograph predates June 1996. This information has all been reviewed and it is confirmed that the existing plans for these applications show the extension granted in the 1991/95 applications and not the earlier extension shown on the photograph.

4.6 The supporting statement also refers to a tree removal application for no. 12 Gloucester Crescent from 2010 ref: 2010/6605/T, which includes a photograph of the rear elevation and which also shows the two storey conservatory extension at no. 13. This information is all correct and it is confirmed that photograph submitted with the application form in this application (on page 14) shows the existing rear extension at no. 14.

4.7 It is therefore accepted that the case made in the supporting statement demonstrates that the photograph submitted (estimated to be taken in the late 1980s) was taken prior to June 1996 which was the date the neighbouring extension (also shown in that photo) at no. 14 was demolished and rebuilt. It is also accepted that the 1996/1997 planning applications at no. 14 show the replacement rear extension at that property on the existing plans, which is not on the submitted photograph. It is therefore accepted on the balance of probability that the extension was constructed prior to the 1998 listing of the building, and therefore did not require listed building consent, and has existed on the site for more than 4 years.

4.8 It is also considered that the photographs from 1986/87 and 1992 showing the applicant Mr Burley as a child and teenager with the extension also visible supports the applicant's case that the

extension was constructed prior to the 1998 listing. The 1983 photograph showing Mr Burleys father only shows inside the extension and is not conclusive in itself.

4.9 The submitted affidavits are also considered to provide strong evidence in support of the application. The affidavit from the neighbour at no. 12 confirms that they moved into their property in 1985 and the extension at no. 13 had been built. The affidavit from the cousin states that she helped complete some refurbishment works at the property in 1988 and the rear extension had been constructed before then and has not been altered since. The affidavit from the neighbour at no. 10 confirms that they moved into their property in 1995 and the extension at no. 13 had been built and has not been altered since. This affidavit from no. 10 also confirms that in their professional capacity as a surveyor the extension can be dated to the 1980s. The affidavit from the applicant's wife confirms that she first visited the property in 1996 and the extension had been built by then and there have been no alterations to it to the present day. The affidavit from the property surveyor states that in his professional view the extension pre-dates the 1998 listing and has not been altered since it was constructed.

4.10 The other submitted evidence dating the extension includes structural engineer's drawings and calculations, heating and electrical drawings and snagging lists all dated 1982 and building receipts dated 1982/1983. The structural, heating and electrical drawings support the applicant's case that the extension was constructed in the 1980s. The other information such as the building receipts is less conclusive as the property address is not referred to.

5. Summary of key dates:

1982	- Permission granted at the application site for rear extension
1982	- Photograph of applicants father in the extension.
1982	- Extension structural engineer's drawings and calculations, heating and electrical drawings
1982/1983	- Building receipts for
1985	- Affidavit from neighbour at no. 12 confirming they moved into their property and the extension at no. 13 had been built.
1986/1987	- Photograph of the applicant as a child in the extension.
1988	- Affidavit from cousin confirming she did some refurb work at the site and the extension had been built.
1992	- Permission granted at neighbouring site 14 Gloucester Crescent for demolition and rebuilding of former rear extension shown in applicants late 1980s photo.
1992	- Photograph of the applicant as a teenager in the extension.
1995	- Affidavit from neighbour at no. 10 confirming they moved into their property and the extension at no. 13 had been built.
1995	- Permission granted at neighbouring site 14 Gloucester Crescent for demolition and rebuilding of former rear extension shown in applicants late 1980s photo.
1995/1996	- Building Control permission granted for demolition and at neighbouring site 14 Gloucester Crescent. Works completed 1996.
1996	- Permission granted for change of use to a dwelling at neighbouring site 14 Gloucester Crescent with plans showing new extension at that site granted 1991/1995 and completed 1996.
1996	- Affidavit from the applicants wife confirming that she first visited the application property and the extension had been built.
1997	- Permission granted for additional storey to rear extension, conservatory and alterations at neighbouring site 14 Gloucester Crescent with plans showing new extension at that site granted 1991/1995 and completed 1996.
1998	- Building Listed (Grade 2)
2006	- Extension shown on Google Earth satellite image.

2010 - Tree works application ref: 2010/6605/T at no. 12 Gloucester Crescent showing the extension at the site.

2013-2017 - Extension shown on Google Earth satellite images.

6. Conclusion

Overall, the submitted evidence, in particular the photos of the site from the late 1980s which are verified by the planning history at no. 14 (also visible in these photos) and which include photographs of the applicant as a child together with the supporting affidavits are considered to demonstrate on the balance of probability that the two storey rear conservatory extension at no. 13 Gloucester Crescent was built prior to the 1998 listing and has existed on the site for more than 4 years and apart from general refurbishment has not been altered since. It is therefore considered that the extension is lawful.

7. Recommendation

7.1 Grant Lawful Development Certificate

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 13th November 2017, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.

Mr Arun Chog Burley
50 Chesholm Road
London
N16 0DR

Application Ref: **2017/5613/P**
Please ask for: **Robert Lester**
Telephone: 020 7974 **2188**

31st October 2017

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Existing) Granted

The Council hereby certifies that on the 13 October 2017 the use described in the First Schedule below in respect of the land specified in the Second Schedule below, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Retention of two storey rear conservatory extension

Drawing Nos: OS Location Plan, As Built Drawings ref: 13GC2017/SK01, Certificate of Lawfulness - Supporting Statement, Affidavit of Mr Chog Burley (property owner), 2017 Photographs of the site, 1980s Photographs of the site, Planning application history at no. 14 Gloucester Crescent, Tree application history at no. 12 Gloucester Crescent, 1983 and 1992 Photograph of the site, 1986-7 Photograph of the site, Affidavit of Michael Sullivan (neighbour), Affidavit of Taahra Ghazi (cousin), Affidavit of Sam Price (family friend & neighbour), Affidavit of Elizabeth Nisbet (neighbour), Affidavit of Sarah Burley (wife of Mr Chog Burley), Affidavit of Michael Langmead (Surveyor), Listing Description dated 23/03/1998, Planning drawings 1404A & 1406B, HB/9160101/R2 1991 No 14 Planning Drawings, 95/2/0297 1995 No 14 Gloucester Crescent Building Control record, PE9606002 Planning Drawings 1996 No 14 Planning Drawings, PE9700192R3 Planning drawings 1997 No 14 Planning Drawings, 2010/6605/T Page 14 of application, Google Earth archive images, Structural Plans and Calculations, Heating, Electrical Plumbing Plans, Building Receipts.

Executive Director Supporting Communities



Second Schedule:
13 Gloucester Crescent
London
NW1 7DS

Reason for the Decision:

- 1 The evidence submitted demonstrates on the balance of probability that the two storey rear conservatory extension at the site was built prior to the 1998 Statutory Listing and has existing on the site for more than 4 years. It is therefore considered that the extension is lawful.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

DRAFT

Notes

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the operations specified in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and thus, was not liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

DECISION