

LDC (Existing) Report		Application Number:	2018/2010/P
Officer	Expiry date		
Lisa McCann	04/07/2018		
Application Address	Authorised Officer Signature		
35 Elsworthy Road London NW3 3BT	See decision notice		
Conservation Area	Article 4		
Yes	No		
Proposal(s)			
Commencement of works in relation to planning permission ref: 2014/5463/P dated 14/01/2015 for Conversion from 2 flats into single family dwelling house including excavation of basement under footprint of house and rear garden with side and rear lightwells, erection of a 2-storey curved bay to rear to replace existing 1-storey angled bay and demolition of side addition.			
Recommendation:	Grant Certificate of Lawfulness		
Site Description			
<p>The application relates to a substantial detached three-storey with basement dwellinghouse on the north side of Elsworthy Road. The property has a large rear garden the rear of the site backs onto Primrose Hill.</p> <p>The site is located within the Elsworthy Conservation Area (CA). The building is identified as making a positive contribution to the character and appearance of the CA.</p>			
Relevant History			
2014/5463/P - Conversion from 2 flats into single family dwelling house including excavation of basement under footprint of house and rear garden with side and rear lightwells, erection of a 2-storey curved bay to rear to replace existing 1-storey angled bay and demolition of side addition. Granted 14/01/2015			
2014/6226/P- Proposed boundary wall with vehicular and pedestrian access gates. Granted 10/12/2014			
J8/4/16/13095 - Alterations including the construction of an access staircase to the second floor at No. 35 Elsworthy Road, Hampstead. Granted 13/10/1961			
Assessment			
1	Proposal		
	The applicant has submitted a certificate of lawfulness stating that works were carried out in the process of implementing the approved scheme before the permission (Ref. 2014/5463/P) expired on 14/01/2018 and therefore the permission can be lawfully implemented.		
2	Evidence submitted		
	<ul style="list-style-type: none"> Site boundary plan FEV_001 		

- Invoice Reference 189197/62887 from Trenchco Ltd dated 22 November 2017
- Bureau Veritas Building Control UK Site inspection record reference B17030649 dated 08.12.2017
- Letter of Intent between Deacon and Jones LLP and Trenchco Ltd dated 08.11.17
- Quantity Surveyor Statutory Declaration dated 05.04.2018 including site photos of implemented works.

3 Assessment

A site inspection on 30.07.2018 confirmed that a significantly sized hole was dug on the southern side of the application site and has since been covered. Under s56 of the Town and Country Planning Act 1990, development is to be taken to have commenced at the earliest date on which any “material operation” comprised in the development begins to be carried out. The photos submitted which indicate the commenced digging and piling works are considered to be such material operations. The photos also indicate that the excavation and piling works carried out at a significant scale. Thus such works would indicate that the development has commenced.

The applicant has submitted a statutory declaration from a Quantity Surveyor of Deacon and Jones attesting that the following works were carried out at the application site before 14.01.18:

- Boring 10 piles into the ground to a depth of approximately 10 metres (to be concrete reinforced) to form part of the foundations of the permanent basement construction of the development
- Pouring concrete to cast the piles in situ
- Digging a trench by way of evidencing that that the piling was not pile caps.

A site inspection record dated 08.12.17 from Building Veritas Building Control UK states that piling works were carried out on site. Thus, on the balance of probability, and with no evidence to suggest otherwise, it is considered that the works took place before the application expires.

As well as material operations, case law has shown that any work must be related to the proposed development. It is considered that the implemented works are related to the basement element of the proposed development.

As such, it is considered, based on the evidence submitted, that the development commenced before planning permission expired, and therefore the development can be further implemented.

4 Recommendation: Grant Certificate of Lawfulness