

<b>LDC Report</b>	14/01/2019
<b>Officer</b>	<b>Application Number</b>
Nora-Andreea Constantinescu	2018/4324/P
<b>Application Address</b>	<b>Recommendation</b>
5 Achilles Road London NW6 1DZ	Grant lawful certificate
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Retention of existing rear dormer and balcony.	
<b>Assessment</b>	
<p>The application site is located on the western side of Achilles Road, and the proposal relates to terrace property.</p> <p>The building is not listed and does not lie within a conservation area. The site is part of Fortune Green and West Hampstead Neighbourhood Plan area.</p> <p>The application seeks to demonstrate that the existing rear dormer and balcony has existed in situ for a period of 4 years or more such that the existing structure would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing dormer has existed for a period of 4 or more years.</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>• Aerial views from Google Earth since 1999 to 05/07/2018.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• A site location plan outlining the application site</li> <li>• Existing drawings showing the existing dormer extension and balcony.</li> </ul> <p><b>Council's Evidence</b></p>	

Relevant planning history at the site:

2013/0989/P – 5 Achilles Road – Mansard roof extension to single family dwelling (Class C3). – Granted 25/04/2013.

This permission shows in existing drawings the existing rear dormer and balcony.

A site visit to the property was undertaken on the 31/10/2018. The officer was satisfied that the dormer in situ is same as represented in the existing drawings.

### **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 existing rear dormer and balcony has been in situ for a period of more than 4 years as required under the Act.

**Recommendation: Grant lawful certificate.**