

LDC Report (Existing)	
Officer	Application Number
Charles Thuaire	2019/3396/P
Application Address	Recommendation
17 Middlefield London NW8 6ND	Grant Certificate of Lawfulness for Existing Development
1st Signature	2nd Signature (if refusal)
Proposal	
Implementation of planning permission ref 2015/5241/P dated 07/07/2016 for Erection of two storey plus basement, five bedroom dwelling house (Class C3) following demolition of existing house	
Assessment	
<p>Site</p> <p>The application site is a 2 storey detached dwelling in a private culdesac. It is not located in a conservation area and not listed.</p> <p>Background history</p> <p>7.7.16- ref 2015/5241/P- planning permission granted for Erection of two storey plus basement, five bedroom dwelling house (Class C3) following demolition of existing house.</p> <p>28.5.19- ref 2019/1416/P- Approval of Details required by conditions 4 (engineers appointment) and 11 (landscaping) of planning permission ref 2015/5241/P dated 07/07/16 (Erection of two storey plus basement, five bedroom dwelling house).</p> <p>Proposal</p> <p>The application relates to the implementation of the approved new dwelling house and seeks to demonstrate that a material start has been made in implementing the approved scheme subject to the above planning permission before its expiry date of 7th July 2019. The works consisted of 3 concrete and steel piles in the front garden lining up with the approved basement wall and were carried out on 6.6.19. All relevant pre-commencement conditions and S106 clauses were discharged before that date.</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"> • Planning Statement by Savills dated June 2019 • Statutory Declaration from the contractor Buildmaster Construction Ltd dated 17.6.19 	

confirming that the works included- 'Setting out the piling works, Installing 3 piles, Making good surface finishes and Providing attendance of the piling sub-contractor.'

- Statutory Declaration from the applicant Waxflower Properties Ltd dated 2.7.19 confirming that the applicant instructed Buildmaster Construction Ltd to undertake the piling works in accordance with their contract of works which commenced on 6th June 2019 and completed on 7th June 2019.
- A certificate dated 12.6.19 from R.P. Testing Solutions stating that the piling at 17 Middleton passed all integrity tests.
- Plan showing location of piles proposed, ref 0881-SK.401B;
- Plans showing piles in relation to approved basement and ground floorplans, refs 8516/009, 010;
- Series of 8 photos showing installation of piles on site.
- Site location plan ref 0881-P.SLP
- Letter dated 29.5.19 from Savills to Council confirming that works to commence implementation of planning permission were due to start in week of 3rd June 2019.
- Email dated 22.5.19 from Councils' Planning Obligations team confirming that 'All pre implementation clauses attached to the S106 agreement has been satisfied'.
- Discharge notice dated 29.5.19 for clause 5.1 of S106 confirming implementation date.
- Discharge notice dated 21.5.19 for clause 4.1 of S106 confirming approval of CMP.
- Discharge notice dated 16.4.19 for clause 4.2 of S106 confirming approval of Level Plans.
- Receipt dated 19.12.18 of S106 payment of £5400.53 on 19.12.18
- Decision notice dated 28.5.19 ref 2019/1416/P regarding pre-commencement conditions 4 and 11.

Council's Evidence

A site visit to the property was undertaken on the 16.8.19. The officer was satisfied that the 3 pile holes had been installed in accordance with the submitted plans and that their positions correlate with the approved plans for the basement front wall.

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 case 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 considers that the works installed on site constitute a sufficiently material operation in scope and nature to start implementing the approved scheme and, in conjunction with other applications submitted to discharge conditions, show the applicant's serious intent to continue implementation of these works. The works are deemed to be sufficient to demonstrate that a material start has been made on site within 3 years of the decision date to implement the planning permission.

Recommendation: Approve