

<b>LDC Report</b>		03/09/2019	
<b>Officer</b>		<b>Application Number</b>	
Obote Hope		2019/2922/P	
<b>Application Address</b>		<b>Recommendation</b>	
Rear Workshop And Premises 322 West End Lane London NW6 1LN		Grant Certificate	
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>			
The use of the front paved forecourt area as a hardstanding for car parking along the Crediton Hill return frontage of the application site for motor vehicles.			
<b>Assessment</b>			
<p>The site is located at the intersection of West End Lane and Crediton Hill that has been operating as a mechanics workshop for more than 25 years. Access is also possible from a service road to the rear of the site. The West End Lane frontage is used as Osteopathy, Sports massage and Psychology Practice at ground floor level with 2 self-contained flats exist on the 1st and 2nd floors. To the rear of the site (Crediton Hill) is a car workshop called "Carmel Garage". The application seeks to demonstrate that hard standing used for the parking of motor vehicles in the front forecourt area of the property has existed for a period of 10 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 hardstanding, has been used for the parking of vehicles has existed for a period of 10 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>• Business Rates payment between 14.03.2014 to 15.03.2017;</li> <li>• Business Rates payment between 01.04.2006 to 31.03.2011 and;</li> <li>• Business Rates payment date 10 March 1995.</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>• Two historic photos showing the front area of the property with a vehicle parked on it. These are labelled 886.PH01; 886.PH02;</li> </ul>			

## **Council's Evidence**

2013/2032/P - 31/10/2013 – Refused - Dropping of the kerb to create a wider crossover in connection with garage (Class B2).

TP/102691/W – 21/08/1964 – Granted - Use of No. 322 West End Lane, Hampstead, as a motor car showroom.

CTP/F5/7/3/3262 – 01/06/1967 – Granted - The construction of a pavement crossover onto Crediton Hill at No. 322A West End Lane, Camden.

A site visit to the property was undertaken on the 5<sup>th</sup> June 2013. The officer was satisfied that the hard standing had been down for some period of time.

The Council's 'in house' Cyclomedia records show a photograph dated 1<sup>st</sup> July 2009 which also shows the property as having hard standing laid in the front garden area and therefore verifies the photo submitted by Heywoods Estate Agents.

## **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 hardstanding at the Crediton Street frontage has been used as a vehicle hardstanding for a period of more than 10 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Approve**