

<b>LDC Report</b>		30/09/2019
<b>Officer</b>		<b>Application Number</b>
Josh Lawlor		2019/4452/P
<b>Application Address</b>		<b>Recommendation</b>
House Excluding Basement 100 Haverstock Hill London NW3 2BD		Grant
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>		
Excavation of part of front garden		
<p><b>Assessment</b></p> <p>The application site is a semi-detached building located on Haverstock Hill. The building is divided into two self-contained residential units. There is also a coach house in use as a self-contained residential unit. The building is located within the Parkhill Conservation Area, The building is not listed.</p> <p>The application seeks to demonstrate that the partial excavation of the front garden was completed in excess of 4 years ago and therefore does not require planning permission.</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>• 100 Haverstock Hill Earthwork Summary, including dated Google Street view images from 2008 – 2019</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• Existing Layout plan 1905-03-A</li> <li>• Existing Section 1905-04</li> <li>• Location Plan 1905-01</li> <li>• Block Plan 1905-02</li> </ul>		

#### Relevant Planning history:

2006/2081/P Erection of a 3 storey single family dwelling house adjacent to 100 Haverstock Hill (Class C3). Refused 17/07/2006

2008/1650/P Reconstruction of original front boundary wall involving demolition of existing front boundary wall in the front garden of single family dwellinghouse. Granted 09/07/2008

2006/4784/P Erection of 2-storey coach house attached to side of 100 Haverstock Hill for use as a self-contained dwelling (Use Class C3) Granted 22/12/2006

2017/0765/T FRONT GARDEN: 1 x Lime – Fell No Objection 06/04/2017

#### Enforcement History

EN09/0721 Large trench dug through RPA of 1 x Lime (TPO) in front garden. Enforcement Action taken (prosecution), tree reduced by 50% to make safe but removing amenity value. Case closed 12/11/2010.

#### **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 case officer has been able to corroborate information provided by the applicant with planning and enforcement history to confirm the existence of the excavation going back to 2009.

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 sufficiently demonstrate that ‘on the balance of probability’ the partial excavation of the front garden has been in place for more than 4 years as required under the Act. Furthermore, the applicant’s evidence, namely the dated photographic evidence are sufficiently precise and unambiguous to justify the grant of a certificate.

#### **Recommendation: Approve**