

LDC Report	11/10/2019
Officer	Application Number
Ben Farrant	2019/4542/P
Application Address	Recommendation
240 Camden High Street London NW1 8QS	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Erection of ground floor rear extension to retail unit (Use Class A1).	
Assessment	
<p>The application site is a three storey mid-terraced property located on the north-eastern side of Camden High Street. The building has a ground floor commercial unit (Use Class A1). The property is not listed, nor is it located within a conservation area. A single storey rear extension has been formed to the rear of the commercial unit infilling the entire rear curtilage of the property.</p> <p>The applicant is required to demonstrate, on the balance of probability that the single storey rear extension has existed for a period of 4 or more years.</p> <p>Relevant Planning History</p> <p>2003/2850/P - The erection of a rear extension at basement and ground floor level, to provide additional retail floorspace and storage (class A1) for 2 units – Approved 23/12/2003</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"> • Aerial photographs showing the extension in place since 2008. <p>The following plans were also submitted with the application:</p> <ul style="list-style-type: none"> • A101 • A102 • A103 • A104 • A106 • A107 	

Council's Evidence

The Council has no evidence to suggest that the extension has existed for less than four years. Council aerial imagery from 2012 also shows the extension in place, thereby demonstrating its existence for in excess of four years.

The evidence submitted demonstrates that on the balance of probability, the rear extension infilling the entire rear of the ground floor of 240 Camden High Street has been in existence for a period surpassing 4 years and the Council has no evidence to contradict this.

Assessment and Context

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 development are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

Aerial imagery has been provided by the applicant showing the extension in place from 2008, whilst the Council's aerial archive (dating from 2012) shows the extension in place from this time. As such both the applicant's evidence and that from the Council demonstrate the existence of the extension for in excess of four years.

There has been no enforcement action taken against the extension.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability', the ground floor rear extension at no.240 Camden High Street and has been used in existence for a period of more than 4 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve