

LDC Report		24/02/2020
Officer		Application Number
Tony Young		2019/6447/P
Application Address		Recommendation
Flat A 77 Patshull Road London NW5 2LE		Grant Certificate of Lawfulness (Existing)
1st Signature		2nd Signature (if refusal)
Proposal		
Removal and bricking up of external door opening at rear ground floor level.		
Assessment		
<p>The application site is located on the northern side of Patshull Road in between junctions with Kentish Town Road and Bartholomew Road, close to the junction with Patshull Place. The site comprises a Victorian semi-detached 3-storey property subdivided into 2 self-contained flats.</p> <p>The property is not listed and is located within the Bartholomew Estate Conservation Area.</p> <p>This application relates to the ground floor flat (Flat A) and seeks to demonstrate that on the balance of probability the building works were completed more than four years before the date of this current application such that their retention would not require planning permission.</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 from Drawing & Planning Ltd (agent) dated December 2019, provided in support of the assertion that the building works were carried out and completed in 2011; • Title register from HM Land Registry ref. NGL814833 (Appendix 1), confirming the purchase of the subject property (by the applicants (Mr Nicholas John Stamos Matthews and Ms Clair Cooper) on 29/01/2015; • Undated estate agent information from Salter Rex LLP (appointed estate agents) (Appendix 2), showing an image of a bedroom (page 2) and a floor layout (page 3) with the works having been carried out and completed; • Major Defects Survey & Valuation Report from Ferrier Tomlin Chartered Surveyors dated 08/12/2014 (Appendix 3), containing an image of a bedroom (page 17) and a floor layout (page 28) showing the works having been carried out and completed; • Law Society Property Information Form completed by Mrs SE Clark and Miss LH Clark (former owners) dated October 2014 (Appendix 4), stating that an internal door had been removed in 2011 (page 5). 		

The applicant has also submitted the following plans:

- Pre-existing drawings - site plan and OS map (PSLRD_L101), ground floor plan (PSLRD_P101) and section AA (PSLRD_S101); and
- As built drawings - site plan and OS map (PSLRD_L001), ground floor plan (PSLRD_P001) and section AA (PSLRD_S001).

Council's Evidence

The relevant historic planning records are as follows:

G12/13/13/2738 - Convert into one flat and one maisonette. Planning permission granted 14/11/1966

Valuation Office Agency (VOA) records show council tax banding details for residential use for Flat A since 01/04/1993.

Site visit

A site visit to the property was undertaken on 07/02/2020. The officer was satisfied that the building works seen on site were consistent with those shown on the submitted drawings and as described in the supporting documents.

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 (Planning Practise Guidance para. 006), 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 documents provided and Council evidence demonstrate that the the building works were completed more than four years before the date of this application and appear to have remained as such until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the building works were completed more than four years before the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Grant certificate