

LDC Report	14/07/2020
Officer	Application Number
Angela Ryan	2020/2184/P
Application Address	Recommendation
Flat B 14 Shirlock Road London NW3 2HS	
1st Signature	2nd Signature (if refusal)
Proposal	
Use of the flat roof of the rear extension as a roof terrace	
Assessment	
<p>1.0 Site Description</p> <p>1.1 The application site is located on the east side of Shirlock Road and comprises a three-storey building that is subdivided into flats. It lie within a terrace of similar buildings where the predominant land-use is for residential use.</p> <p>1.2 The building is not listed and is located in the Mansfield Road Conservation Area.</p> <p>2.0 Proposal</p> <p>2.1 The application seeks to demonstrate that the flat roof of the rear extension has been used for a roof terrace for a period of 4 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 existing residential unit has existed for a period of 4 or more years.</p> <p>3.0 Applicant's Evidence</p> <p>3.1 The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • A Planning Statement confirming that the roof has been used for a terrace since 1992 with photographs of the occupant using the roof as a terrace • A letter from a solicitor at the neighbouring property at no. 12 Shirlock Road verifying that they have lived at the premises since 1987 and that the occupant at no. 14 Shirlock Road 	

has been using the flat roof for a terrace for the same period.

- An affidavit from the occupier of the neighbouring property at no. 16 Shirlock Road verifying that the Occupant of no. 14 Shirlock Road has been using the flat roof for a terrace since the 1980's

3.2 The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Drawing no: A100- showing elevations and sections

4.0 Council's Evidence

4.1 There is no relevant planning history or enforcement action on the subject site.

4.2 Council tax have confirmed that the applicant has been liable for Council Tax since at least 1997 and it has been in payment continuously since then.

4.3 An aerial image taken in 2014 on Magic, shows furniture located on the flat roof of the rear extension. The Officer is satisfied that in all probability the flat roof of the rear extension has been used for a terrace for some time. .

5.0 Assessment

5.1 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.

5.2 The Council does not have any evidence to contradict or undermine the applicant's version of events.

5.3 The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the flat roof of the rear extension has been used for a terrace 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: Grant Certificate