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| **LDC Report** | 23/04/2020 | |
| **Officer** | | |  |
| Raymond Yeung | | 2020/1800/P |
| **Application Address** | | **Recommendation** |
| 81 Avenue Road  London  NW8 6JD | | Approve Certificate of Lawfulness |
| **1st Signature** | | **2nd Signature (if refusal)** |
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| **Proposal** | | |
| Commencement of works in accordance with condition 1 (within three years from date of permission) of planning permission 2016/5197/P (Erection of a 3 storey, single family dwellinghouse (Class C3) with accommodation in the roof space and a basement beneath house and part of rear garden, following the demolition of the existing dwellinghouse) dated 13/04/2017. | | |
| A lawful development certificate has been submitted to establish the commencement /implementation in accordance with condition 1 (within three years from date of permission) of planning permission 2016/5197/P (Erection of a 3 storey, single family dwellinghouse (Class C3) with accommodation in the roof space and a basement beneath house and part of rear garden, following the demolition of the existing dwellinghouse) dated 13/04/2017. The permission expired on 13/04/2020.    The applicant is required to demonstrate, on balance of probability that material operation for the purposes of section 56(1) of the 1990 Act has been carried out.  **Applicant’s Evidence**  The applicant has submitted the following information in support of the application, showing that the lift shaft has been built and therefore classifies that the proposal has been implemented:   * Copy of decision notices for pre-commencement conditions 2020/0109/P, 2020/0138/P and 2020/0343/P; * Knightbuild - Planning Implementation Works (2 April 2020); * Knightbuild - Site Set Up- ref.KB441-SK-800 R01; * Knightbuild - Section A-A - ref. KB441-SK-801 R01; * Email confirmation for Knightbuild to proceed with the works (7 April 2020); * The Royal Borough of Kensington and Chelsea - Site Inspection Report (15 April 2020); * Site photographs, dated 15 April 2020. * CIL Commencement notice dated 7 April * CIL Demand Notice dated 20 March 2020 * Cover letter dated 18 June 2020   **Council’s evidence**  The applicant has discharged all of the pre-commencement conditions under ref: 2020/0138/P(Hard and soft landscaping), 2020/0343/P ( Tree protection ) and 2020/0109/P (Professional qualifications) that required details to be agreed by the Council prior to commencement of any development, which were all approved by the council. The other conditions require details to be submitted to the Council either prior to the relevant part of the works or prior to occupation/use.  Building Control records state that works have commencement under ref: 20/2L/02855 which confirms that works have ‘Commenced’ in relation to the works that form part of the 2016 permission.  Camden Council issued a CIL demand notice dated 20 March 2020 following the receipt of a notice of commencement by the applicant.  **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 the development has commenced prior to the date mentioned above.  Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events. | | |
| **Recommendation: Approve** | | |