

<b>LDC Report</b>	15/07/2020
<b>Officer</b>	<b>Application Number</b>
Gary Bakall	2020/2022/P
<b>Application Address</b>	<b>Recommendation</b>
50 Rochester Place London NW1 9JX	Approve Certificate of Lawfulness
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Commencement of works in accordance with condition 1 (within three years from date of permission) of planning permission 2016/3719/P for the excavation beneath the footprint of the property for a basement extension and erection of single storey glazed roof extension associated with the use as Garage/Workshop (Class B2).	
<b>Assessment</b>	
<p>A lawful development certificate has been submitted to establish the commencement /implementation of works granted under planning permission 2016/3719/P for the excavation beneath the footprint of the property for a basement extension and erection of single storey glazed roof extension associated with the use as Garage/Workshop (Class B2) - commenced prior to the expiration of the permission (9<sup>th</sup> May 2020).</p> <p>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.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application, showing that a trench that contains part of the foundation has been excavated on 4<sup>th</sup> May 2020 and therefore classifies that the proposal has been implemented:</p> <ul style="list-style-type: none"> <li>• Planning consent - 2016/3719/P Decision notice</li> <li>• Planning consent – 2020/0561/P Decision notice</li> <li>• Photographic evidence of the new foundation</li> <li>• Plan showing location of new foundation</li> <li>• Pre-application advice</li> </ul> <p><b>Assessment</b></p> <p>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</p>	

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**