

<b>LDC (Existing) Report</b>		<b>Application number</b>	2020/2817/P
<b>Officer</b>		<b>Expiry date</b>	
Josh Lawlor		15/09/2020	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
6-10 Lissenden Gardens London NW5 1LX			
<b>Conservation Area</b>		<b>Article 4</b>	
Dartmouth Park			
<b>Proposal</b>			
Implementation of planning permission ref: 2016/4935/P dated 06/07/2017 for the 'Erection of a two storey roof extension at roof level to create 9 self-contained residential dwellings (Class C3) (1 x 3 bedroom flats and 8 x 2 bedroom flat)'.			
<b>Recommendation:</b>		<b>Grant</b>	

Planning permission (ref. 2016/4935/P) was granted on 06/07/2017 for:

“Erection of a two storey roof extension at roof level to create 9 self-contained residential dwellings (Class C3) (1 x 3 bedroom flats and 8 x 2 bedroom flat).”

The certificate seeks to establish that works to implement the approved scheme have commenced before the application 2016/2935/P expired on 06/07/2020, and that the implementation of the scheme is therefore lawful and such development can continue as per the previous permission.

### **Applicant's Evidence**

The applicant has submitted the following information in support of the application:

- Photographic Record of the foundation being dug for the bicycle/bin store associated with discharged conditions 5 (cycle store) and 6 (bin store) ref. 2020/1180/P dated 04/06/2020. The photographs are undated but the 'created' date in the properties of the photographs and cover letter from the agent date the photographs to 01/07/2020.
- Invoice from the contractor (Regal Renovations) who carried out the work stating that works were complete on the 29/06/2020.

- Site Location Plan

## **Council's Evidence**

Under planning permission 2016/4935/P, there are no conditions which required further details to be discharged prior to the commencement of development.

Under planning permission 2016/3767/L, there was one condition which was required to be discharged prior to the commencement of development. Condition 4 (Stone Cleaning) was approved on 13/9/19 under planning reference 2019/2788/L.

## **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 information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the works have commenced before the application expires and the implementation of the scheme would be lawful. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events. The works are considered to be significant enough to constitute a material commencement of the implementation of the planning permission and were carried out before the 3 year expiry of permission on 6.7.20.

## **Recommendation:** Grant Certificate of Lawfulness (Existing)

Reason- The works carried out on site are a material operation which constitute implementation of the development permitted by planning permission dated 7.7.16 ref 2015/5241/P and had begun on site within three years of the date of the permission.