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Dear Sir/Madam

Application for Certificate of Lawfulness Development

Flat 4, 28 Steele's Road, London, NW3 4RE

We write on behalf of the Applicant, Mr Peter Beardsell, in respect of an Application for a Certificate of Lawfulness Development for the following existing development:

Enlargement of existing front dormer, installation of five rooflights to the top of roof, enlargement of existing rear dormer and creation of a roof balcony.

The application and supporting evidence demonstrates that the development as described above has been in existence for a minimum of four years and is therefore lawful under Section 191 of the Town and Country Planning Act 1990 (as amended), henceforth referred to as 'The Act.'

Background

This application relates to Flat 4, 28 Steele's Road, which is the top floor flat in this building.

An application for planning permission for alterations to the existing flat at roof level was made on 24th July 2000 by a Mr Peter Salter on behalf of Mr Peter Beardsell, the owner of the flat. The application was accompanied by a single drawing entitled 'drawing 2'. The application was validated and the description of development was stated to be for **"the enlargement of existing front dormer, installation of a roof light to the rear roof slope and enlargement of existing rear dormer and creation of a roof balcony, as shown on drawing number 2."** The reference number for this planning application was PWX0002645.

During the course of the planning application, Mr Peter Beardsell wished to make some changes to the proposed drawings. As his current architect, Mr Peter Salter, was engaged on other commitments, Mr Peter Beardsell appointed a new architect, a Mr David Adjaye of Adjaye and Associates to prepare a set of amended drawings. Adjaye and Associates wrote to the Council on 14th August 2000 quoting the reference number of the application and enclosing 6 sets of amended plans which were to be added to the application. The amended plans made a number of changes to the proposals mainly to the interior layout of the flat but added four rooflights to the proposals as well as showing an existing upstanding rooflight over the staircase and landing being replaced with a new upstanding rooflight in a slightly different location. The velux rooflight in the rear roof slope referred to in the description of development was omitted from the plans.

Planning permission was granted by the Council on 24 October 2000. However, the decision notice does not refer to the amended drawings provided by Adjaye and Associates but rather the original plan, drawing 2, submitted with the application by Mr Peter Salter.



On 19th December 2005, a Certification of Completion was issued by Camden Council for refurbishment and new balcony. The Certificate refers to the receipt of a building notice made on 6th November 2000 and confirms that the work was seen to have been completed on 19th December 2005.

Reason for the Certificate application

The planning permission that was granted in October 2000 refers to a drawing number that was originally submitted with the application and not the revised drawings that the owner instructed his new architect to submit and was sent to the Council in August 2000. The works that took place to the flat are those that were shown on the revised set of drawings and not the original plans submitted with the application. The owner undertook the works based on the revised drawings in good faith believing that they had been approved. The most notable difference in planning terms was that they included 4 rooflights on top of the roof together with the replacement and relocation of the rooflight over the staircase and landing, as well as not including the rooflight (velux) in the rear roof slope.

The applicant would like to receive a certificate of lawfulness confirming that the works to the roof as described in the description of development at the beginning of this letter are lawful by reason of being in existence for more than 4 years and as such are immune from any enforcement action.

Legal and Planning Framework

Section 171B of The Act sets out the time limits for taking enforcement action. The timeframe once exceeded makes the built development immune from any form of enforcement if no action is taken:

- Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

Section 191 of The Act provides that any person wishing to ascertain whether any operations that have been carried out on land are lawful may make an application to the local authority specifying the land and describing the operation.

Section 191 Paragraph 2 highlights the criteria for whether the operations are lawful at any time if:

- No enforcement action has taken place in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- The development does not constitute a contravention of any of the requirements of any enforcement notice then in force.

Paragraph 3 of Section 191 of The Act states that in determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if:

- The time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired,
- An application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn
- A planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.

Paragraph 5 of Section 191 of The Act states the provided requirements for a Certificate of Lawfulness:

- Specify the land to which it relates.
- Describe the use, operations or other matter in question.
- Give the reasons for determining the use, operations or other matter to be lawful.
- Specify the date of the application for the certificate.

The Planning Practice Guide ('PPG') provides national guidance on Lawful Development Certificates and reiterates the above.

Paragraph 005 of the PPG advises that an application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application along with the relevant application forms and fees.

Paragraph 006 of the PPG advises that the applicant is responsible for providing sufficient information to support an application and that if the local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Accordingly, please find enclosed the following documents:

- The completed Certificate of Lawfulness application form;
- A site location plan identifying the land;
- Evidence to verify the application, as follows:
 - Planning application form dated 24th July 2000;
 - Planning permission dated 24th October 2000;
 - Copy of drawings prepared by Adjaye and Associates dated 30th August 2000 (Drg. No. PBS 01/001) and 15th January 2001 (Drg. Nos. STR01/011 C);
 - Certificate of Completion dated 19th December 2005; and
 - Aerial photographic evidence from Google maps between 2003 and 2018.

The requisite application fee will be paid separately by our client.

The applicant is Mr Peter Beardsell, who is the leaseholder of the top floor flat and owns part of the freehold of the property. The other freeholders have been notified about this application.

Evidence

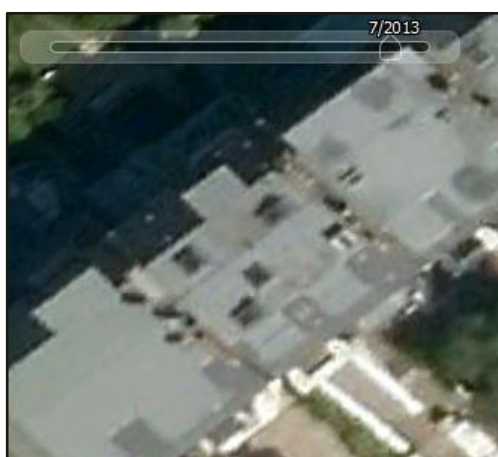
Although the alterations at roof level were not carried out in accordance with the planning permission granted in 2000, primarily by reason of the additional four roof lights to the top of the roof, these changes to the roof form as built have clearly been in place for more than 4 years and no enforcement action has been taken against the development nor is there an enforcement notice in place.

The planning permission was granted on 24th October 2000. We have been provided with a drawing dated 30th August 2000 prepared by Adjaye and Associates which is a floor plan of the top floor flat and shows four roof lights alongside the enlargement of the existing front dormer, the installation of a replacement rooflight above the staircase and landing, and the enlargement of the existing rear dormer and creation of a roof balcony. We understand that this drawing was provided to the Council as part of the planning application in 2000 but it is not referred to on the planning permission decision notice.

We have been provided with two drawings from 2001 prepared by Adjaye and Associates. We understand that these formed part of the Building Notice application. These drawings also show four rooflights in the ceiling plan as well as one over the staircase and landing.

The Certification of Completion Notice issued by the Council on 19th December 2005 indicates that a building notice or deposit of plans was made on 6th November 2000. The Certification of Completion Notice is for refurbishment and new balcony to Flat 3, 28 Steele's Road and states that the work was seen to have been completed on 19 December 2005.

A Google Earth timeline of the roof of the property has been prepared which covers the period from 2003 to 2018. The software used was Google Earth Pro (downloaded version not the online webpage). The author of this timeline has been prepared using the timeline bar in Google Earth Pro and has taken excerpt shots from the years available. An example of this is provided in the below image and indeed demonstrates that the four rooflights were in situ in July 2013, more than 4 years ago. The timeline provided shows that on each image from 2003, the five rooflights have been in existence.



Conclusion

The alterations to the roof were carried out more than 4 years ago. Whilst the alterations to the roof may have been carried out differently to the approved drawing cited on the decision notice, a Certificate of Completion was issued in 2005. It is clear from aerial images stretching back more than 15 years that the five rooflights to the flat have existed alongside the other alterations to the dormer windows as described on the planning permission.

The evidence submitted with the application is sufficient to demonstrate that the existing development at roof level has been in existence for more than 4 years. Therefore, it is requested that a Certificate of Lawfulness Development should be issued accordingly.

Should you require any further information or assistance, please feel free to contact me on the details set out at the head of this letter.

Yours sincerely

Savills UK

Bill Taylor
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