

LDC Report		15/10/2020	
Officer		Application Number	
Charlotte Meynell		2020/4233/P	
Application Address		Recommendation	
34 Chalk Farm Road London NW1 8AJ		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Erection of 4th floor rear extension to existing student accommodation building (Sui Generis), for use as 2 x additional student accommodation units.			
Assessment			
<p>The application site is a four-storey building located on the north side of Chalk Farm Road close to the junction with Harmood Street. The building is in commercial use at ground floor level, with student accommodation above. The application relates to the erection of a rear extension at 4th floor level to provide 2 additional student accommodation units.</p> <p>The applicant is required to demonstrate, on balance of probability, that the roof extension has existed for a period of 4 or more years, and is now lawful for planning purposes under section 191 of the Town and Country Planning Act 1990.</p> <p>Relevant Planning History</p> <p>2013/4467/P – Erection of rear extension at 4th floor level to provide two additional student units associated with existing accommodation (Class C2). Recommendation to grant planning permission subject to the signing of a Section 106 Legal Agreement; however, Section 106 Agreement was never signed.</p> <p>2012/0974/P – Redevelopment of existing petrol filling station site with a basement plus 4-storey mixed-use building, comprising 6 x retail units (Class A1/A3) at basement and ground floor level and 40 student residential units (Sui Generis) at mezzanine, first, second and third floor level with cycle storage in the basement. Planning permission granted 09/10/2012</p> <p>2008/2981/P – Erection of a part 2, part 4-storey building with two basement levels to provide student accommodation comprising 192 self-contained study rooms and ancillary facilities (Sui Generis) (following demolition of existing buildings). Planning permission granted 23/09/2008</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> Covering letter in support of the existing use including Google Streetview images of the 			

extension from 2014 and 2015 (prepared by SM Planning, dated 14/09/2020);

- Tenancy agreement for Room No. 259 dated 22/10/2014;
- Tenancy agreement for Room No. 260 dated 16/04/2014.

The applicant has also submitted the following plans:

- As Built Chalk Farm Road Elevation 200920-A(SO)401;
- As Built Fourth Floor Plan 200920A-A(SO)140 Rev. A;
- As Built North Elevation of Fourth Floor 200920-A(SO)403;
- Harmood Street Elevation As Built 2002920A(GA)411;
- OS Location Plan 200920-A(SO)001.

Council's Evidence

The Council has no evidence to suggest that the extension has existed for less than four years. Council archive imagery from 2014 also shows the extension in place, thereby demonstrating its existence for in excess of 4 years.

The evidence submitted demonstrates that on the balance of probability, the 4th floor rear roof extension at 34 Chalk Farm Road has been in existence for a period surpassing 4 years and the Council has no evidence to contradict this.

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. 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.

Google Streetview images have been provided by the applicant showing the extension in place in 2014, whilst the Council's aerial archive dating from 2014 shows the extension in place from this time. Furthermore, the applicant has submitted tenancy agreements for the two rooms within the extension which are dated April and October 2014. As such, both the applicant's evidence and that from the Council demonstrate the existence of the extension for in excess of 4 years.

There has been no enforcement action taken against the extension.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the fourth floor rear roof extension used as two additional student accommodation units at No. 34 Chalk Farm Road has been in existence for a period of more than 4 years as required under section 191 of the Town and Country Planning Act 1990. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Grant Certificate of Lawfulness (Existing)