

LDC (Existing) Report	30/10/2020	
Officer Jennifer Walsh	Application Number 2020/4824/P	
Application Address 8 Hillway London N6 6QD	Recommendation Grant Lawful Development	
1st Signature	2nd Signature (if refusal)	
Proposal Retention of the existing side and rear dormers to the dwelling		
Assessment		
<p>The application site is a semi-detached property located on the corner of Bromwich Avenue and Hillway, located within the Holly Lodge Estate.</p> <p>The building is not listed and is located in the Holly Lodge Conservation Area and Highgate Neighbourhood Area.</p> <p>The application seeks to demonstrate that side and rear dormer windows have existed for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 or more years.</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"> • Site Location Plan; • Existing Floor Plans and Elevations; • Building Regulations Certification of Completion dated 24th August 2007 • Google Earth photographs <p>Council's Evidence</p> <p>There is enforcement action on the subject site. An enforcement notice was served on the property in September 2008 against two dormer windows. The Enforcement notice was 'complied' with in November 2010 after planning application 2006/4748/P was properly</p>		

implemented.

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.

Planning permission 2006/4748/P was granted in 2006 for the “*Erection of new conservatory to rear of house and car port in rear of garden. Alteration to existing roof profile to provide 2 new dormer windows to side and rear.*”

A further application 2008/2235/P “*Installation of two dormer windows at side and rear of single family dwelling house (alterations to previous planning permission 2006/4748/P).*” This application was refused and Dismissed at appeal, however, the larger dormer windows were constructed. An Enforcement Notice was served on the property in 2008, however the Council’s records show that this was complied with in 2010 after the planning application 2006/4748/P was implemented.

The Council’s evidence supports the applicant’s evidence and does not have any evidence to contradict or undermine the applicant’s version of events.

The information provided by the applicant and the dates and images included within the Enforcement history is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the side and rear dormer windows have existed for a period of more than 4 years as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Approve