

<b>LDC Report</b>	15/03/2021	
<b>Officer</b> Angela Ryan	<b>Application Number</b> 2021/0216/P	
<b>Application Address</b> Flat B 45 Lancaster Grove London NW3 4HB	<b>Recommendation</b> Grant Certificate of Lawfulness	
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>		
Alterations to window at 1st floor level on the front elevation to form part window, part door to access front balcony area		
<b>Assessment</b>		
<p>The application site is a three-storey detached building located on the north-side of Lancaster Grove. It is currently sub-divided into four self-contained flats It lies within a group of similar type properties where the predominant land-use is for residential purposes.</p> <p>The application relates seeks to obtain a certificate of lawfulness for existing development for alterations to an opening on the front elevation at 1<sup>st</sup> floor level, which resulted in the window being altered to create a door. The door provides access out onto the first-floor balcony area.</p> <p>The building is not listed and is located in the Belsize Conservation Area.</p> <p>The application seeks to demonstrate that the door located at 1<sup>st</sup> floor level on the front elevation has existed since December 2016 and has been in existence for a period of more than 4 years.</p> <p>The applicant is required to demonstrate, that on balance of probability that the existing door at front 1<sup>st</sup> floor level has existed for a period of 4 or more years.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Builder Quotation from JMF Joinery Limited dated 10/12/2016</li> <li>• 3 x Sworn Affidavits</li> <li>• 3 x Coloured photographs</li> </ul>		

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Planning Statement dated 17/01/2021 (Ref: 45/PP/CL)
- 45/BP- Block Plan
- 45/FIRST/FE – Pre-existing first floor plan
- 45/FIRST/AA – Existing first floor plan
- 45/FIRST/E SECT- Existing section through previous window opening
- 45/FIRST/ P SECT – Cross section through existing door opening

### **Council's Evidence**

There is no relevant planning history or enforcement action on the subject site.

The officer is satisfied based on the evidence provided that on the balance of probability the door located at 1<sup>st</sup> floor level on the front elevation of the property has been in place for 4 years or more.

### **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 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 ‘on the balance of probability’ the door located at 1<sup>st</sup> floor level on the front elevation has been in-situ 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**

