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| LDC (Existing) Report | | Application number | 2021/0138/P |
| Officer | | Expiry date | |
| Adam Greenhalgh | | 10/03/2021 | |
| Application Address | | Authorised Officer Signature | |
| Newmount 11 Lyndhurst Terrace London NW3 5QA | | | |
| Conservation Area | | Article 4 | |
| Yes – Fitzjohn’s/Netherhall | | N/A | |
| Proposal | | | |
| The erection of an additional (second) sun room on the roof (permitted and commenced under planning permission CTP/F7/2/2/35037 dated 29/11/1982) | | | |
| Recommendation: | | Grant certificate | |

The application site

The site comprises a 20th century five storey block of flats. It is located on the east side of Lyndhurst Terrace and it is in the Fitzjohn’s/Netherhall Conservation Area. The application relates to the roof of the penthouse flat which is set back on the top floor of the building.

Planning history

CTP/F7/2/2/23082 – Erection of sun room on roof - granted on 24/08/1976

CTP/F7/2/2/35037 - Erection of additional sun room at roof level - granted 29/11/1982

2004/3974/P – Demolition of existing sunroom at fourth floor/roof level, and replacement by the construction of two new sunrooms, as an extension to the existing third floor flat, plus extended roof terrace and associated balustrading - granted 05/11/2004

2006/2846/P - Alterations to external appearance of the building to provide cedar cladding below windows and a rendered finish, as an amendment to planning permission granted 5th November 2005 (ref. 2004/3974/P) for the demolition of existing sun room at 4th/roof level and replacement by the construction of 2 new sun rooms as an extension to the existing 3rd floor flat plus extended roof terrace and associated balustrading – granted 11/08/2006

2007/6354/P – Extension at roof level to provide additional habitable accommodation to the third floor flat including front and rear roof terraces as an amendment to planning permission dated 5/11/2005 (ref. 2004/3974/P) for demolition of existing sunroom at fourth floor/roof level and replacement by the construction of two new sunrooms as an extension to the existing 3rd floor flat plus extended roof terrace and associated balustrading - granted 08/04/2008

Assessment:

The application is for a Certificate of Lawfulness in respect of a second sun room on the roof of the building that has been partially implemented. The application is made on the basis that, having

been granted under planning permission CTP/F7/2/2/35037 on 29/11/1982, the development was commenced within the statutory five year time period and therefore it is lawful.

The sun room is shown on drawing 629/11 which is referenced on planning permission CTP/F7/2/2/35037. It would be sited on the front part of the roof of the fifth floor penthouse flat.

It is the same size as the existing sun room which has been erected on the rear part of the roof (under planning permission CTP/F7/2/2/23082 granted on 24/08/1976. Also, it is symmetrical in plan and elevational form.

Also included within drawing 629/11, approved under CTP/F7/2/2/35037, is a raised tank room and link between the two sun rooms and this has been erected and it is on the application photographs and on Google Maps.

A development the subject of a planning permission is lawful if the planning permission is commenced and if:

- there is no condition relating to the cessation of the planning permission
- there is no later planning permission which has rendered the original planning permission defunct
- the premises have not been demolished or converted to another use
- the premises are as shown on the approved plans

Evidence has been submitted (and checked) to demonstrate that planning permission CTP/F7/2/2/35037 was lawfully commenced. The evidence consists of:

- Drawing 629/11 showing proposed sun room and raised height of water tank room/link approved under planning permission CTP/F7/2/2/35037;
- Letter from Jeffrey Howard Architects (25/05/2004) confirming that planning permission CTP/F7/2/2/35037 was commenced by way of raising the tank room (But note, no date was given for the commencement of the works);
- Affidavit of Gideon Black (owner of the top floor flat in 2004) testifying that planning permission CTP/F7/2/2/35037 was commenced within the statutory time period by way of raising of the tank room and corridor;
- Affidavit of Michael Black (father of owner of the top floor flat) testifying that when he visited the site in 2003 and 2004 there was evidence that planning permission CTP/F7/2/2/35037 had commenced (But note, no date for the commencement of the works is given).

Further evidence has been submitted and checked as follows:

- Decision notice and Officer report for planning permission 2004/3974/P with comment that 'The previous 1982 permission is still able to be implemented fully; the assessment of this application needs to take account of this possibility'.

On the balance of probabilities, it is considered that works to implement planning permission CTP/F7/2/2/35037 were commenced within the statutory period, prior to the expiration of that permission on 29/11/1987, and the development is therefore lawful. Works have been undertaken to implement CTP/F7/2/2/35037 (i.e. the raising of the tank room and link) and legally binding statements exist from the owner of the top floor flat and a planning application officer report (for 2004/3974/P) to corroborate the evidence.

It is therefore concluded that the development permitted under CTP/F7/2/2/35037 has been implemented and it is therefore lawful and a Certificate of Lawfulness should be granted.

Recommendation:

Grant Certificate of Lawfulness