

<b>Delegated Report</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	01/08/2018
		N/A / attached	<b>Consultation Expiry Date:</b>	N/A
<b>Officer</b>			<b>Application Number(s)</b>	
Enya Fogarty			2021/2728/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
15 Wedderburn Road London NW3 5QS			Please refer to decision notice	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Commencement of works in accordance with condition 1 (within three years from date of permission) of planning permission (2017/1006/P) granted on 15-03-2018 for ' <i>Change of use from three residential flats to two residential flats (Class C3); extension of lower ground floor level with lightwells and excavation of new basement level; erection of a single storey rear extension at lower ground floor level with terrace and 2 single storey side extensions at lower and ground floors; minor alterations to the north, west and south elevations and front boundary treatment (following the demolition of the existing side conservatory and rear extension).</i> '				
<b>Recommendation(s):</b>	<b>Grant Certificate of Lawfulness (Proposed)</b>			
<b>Application Type:</b>	<b>Certificate of Lawfulness (Proposed)</b>			
<b>Conditions or Reasons for Refusal:</b>	<b>Refer to Decision Notice</b>			
<b>Informatives:</b>				

## Site Description

The site is a detached building on the corner of Wedderburn and Akenside Road. The property is not listed but is located within the Fitts Johns Netherhall Conservation Area.

## Relevant History

### 15 Wedderburn Road

**2015/6808/P**- *Change of use from three residential dwelling units to two residential dwelling units.*  
**Granted 29-01-2016**

**2017/1006/P**- *Change of use from three residential flats to two residential flats (Class C3); extension of lower ground floor level with lightwells and excavation of new basement level; erection of a single storey rear extension at lower ground floor level with terrace and 2 single storey side extensions at lower and ground floors; minor alterations to the north, west and south elevations and front boundary treatment (following the demolition of the existing side conservatory and rear extension).* **Granted 15-03-2018**

**2021/1131/P**- *Alterations to tree protection plan, as an amendment to planning permission ref. 2017/1006/P dated 15/03/2018 (for Change of use from three residential flats to two residential flats (Class C3); extension of lower ground floor level with lightwells and excavation of new basement level; erection of a single storey rear extension at lower ground floor level with terrace and 2 single storey side extensions at lower and ground floors; minor alterations to the north, west and south elevations and front boundary treatment).* **Pending consideration**

## Assessment

### Background:

Planning permission ref 2017/1006/P was granted on the 15/03/2018 for '*Change of use from three residential flats to two residential flats (Class C3); extension of lower ground floor level with lightwells and excavation of new basement level; erection of a single storey rear extension at lower ground floor level with terrace and 2 single storey side extensions at lower and ground floors; minor alterations to the north, west and south elevations and front boundary treatment (following the demolition of the existing side conservatory and rear extension).*'

The certificate seeks to establish that works to implement the approved scheme commenced before the permission expired on 15/03/2021, and that the implementation of the scheme is therefore lawful and such development can continue as approved under this permission.

### Applicant's Evidence

1. Receipt of documents for s106 obligation
2. Piling confirmation
3. Commencement email to Council
4. Confirmation of NMA payment
5. Commencement Notice
6. CMP working framework
7. CIL Liability Notice
8. S106 Discharge Notice
9. Photographs of the site

### 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 (Planning Practise Guidance para. 006), 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 application was submitted on 04/06/2021 accompanied by the documents by way of evidence in support of the assertion that planning permission was implemented before 15/03/2021 following the commencement of works to facilitate planning permission 2017/1006/P.

The applicant states that the permission Ref 2017/1006/P has been implemented on site by virtue of the excavation and installation of two piles to form the foundations. The evidence submitted includes a letter from Built London LTD dated 03.06.2021 stating on the 03/03/2021 hoarding was set up and trial pits dug, and the installation of piles which were completed on the 09/03/2021. Included in the letter is photographic evidence and additional photographs of the site were also submitted with the application.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the works commenced before the planning permission (2017/1006/P) expired, and as such, the implementation of the scheme would be lawful, and any work

approved under this permission and yet to commence can be completed. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Conclusion:

Recommendation: Grant Certificate