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| <b>LDC Report</b>   | 05/11/2021                                   |
| <b>Officer</b>  | <b>Application Number</b>                    |
| Miriam Baptist  | 2021/3124/P                                  |
| <b>Application Address</b>  | <b>Recommendation</b>                        |
| Flat A<br>64 Bartholomew Road<br>London<br>NW5 2AJ  | Grant Certificate of Lawfulness              |
| <b>1<sup>st</sup> Signature</b>   | <b>2<sup>nd</sup> Signature (if refusal)</b> |
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| <b>Proposal</b>   |  |
| Ground floor single storey conservatory at rear of property.  |  |
| <b>Assessment</b>   |  |
| <p>The application site is a ground floor flat in a three storey dwellinghouse located in Bartholomew Estate, a well-preserved Victorian residential development. The building is not listed and is located in the Bartholomew Estate Conservation Area.</p> <p>The application relates to an existing rear conservatory. The application seeks to demonstrate that conservatory extension has existed for a period of 4 years or more such that the continued use would not require planning permission.</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>• An inventory dated 01.10.2011 which includes a floor plan of the dwelling which shows the conservatory, referred to as the dining room, on page 6. There is an inventory of the room (page 18 – 19) with a photograph of the conservatory on page 18.</li> <li>• An inventory dated 25.05.2013 which includes an inventory of the conservatory (page 25 – 26) and photographic evidence of the conservatory insitu (page 27 – 28). Photos time stamped 25.05.2013.</li> <li>• A montage of photos 'photos: rear garden views east' taken from the rear garden of 60a Lawford Road on 24/04/2015 by Tom Young Architects in relation to planning application for 60a Lawford Road, reference 2015/2385/P.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• A site location plan outlining the application site</li> <li>• Plan, elevation &amp; section of the conservatory (drawing no. C/PP/201).</li> </ul> |  |

## **Council's Evidence**

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

Aerial photographs in the Council's mapping system show the conservatory has been in place since at least 2012 and therefore over 4 years. The officer is satisfied that the conservatory has existed for more than 4 years.

## **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 lower ground floor unit has existed in residential use 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**