

# CHRISTOPHER WICKHAM ASSOCIATES

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## Town Planning Consultancy

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Our ref: CWA/CMW/pl/1429

Date: 3<sup>rd</sup> February 2022

London Borough of Camden  
Development Management  
5 Pancras Square  
London N1C 4AG.

VIA THE PLANNING PORTAL ONLY

Dear Sir or Madam,

### **TOWN AND COUNTRY PLANNING ACT 1990**

**SITE AT FLAT 4, 57 PARLIAMENT HILL, LONDON NW3 2TB**

**LAWFUL DEVELOPMENT CERTIFICATE APPLICATION – EXISTING USE**

**PLANNING PORTAL REFERENCE: PP-10528486**

I refer to the above site, and to the application for a Lawful Development Certificate (LDC) in respect of the existing use of part of roof as a terrace with associated railings, fencing, and roof access hatch. The application is made by the joint owners of Flat 4, Mr and Mrs Pitchford.

In addition to the application form and this covering letter, the application comprises the following documentation:-

- Drawing no. 10636/TP/01 (existing top floor and roof plans, section, and site location plan);
- Drawing no. 10636/TP/02 (existing rear and side elevations);
- A statutory declaration, with exhibits, by the joint applicant, Mr Christopher Pitchford;
- A statutory declaration by Ms Barbara Galloway of Flat 1, 57 Parliament Hill;
- A statutory declaration, with exhibit, by Mr Joshua Wilson of Amberden Estates;
- A copy of planning permission CTP/E8/4/30/19089 ("the Planning Permission"); and
- Copies of drawing nos. D3A and D4A (approved as part of the Planning Permission).

The application fee of £206 is being paid via the portal.

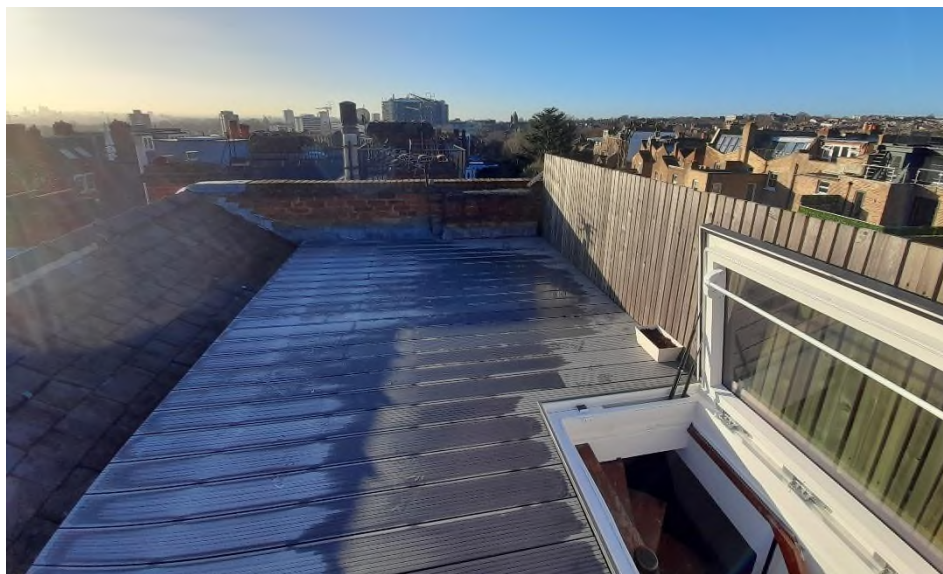
In assessing this application, I would ask you to have regard to the following:-

### ***Site Context***

The application site is occupied by a semi-detached Victorian house ("The Property"), located on the

north-west side of Parliament Hill, which includes accommodation over 4 floors. The Property is subdivided and in use as four self-contained flats including Flat 4 (“the Flat”) which occupies the top floor.

The Flat includes a terrace (“the Terrace”), the subject of this application, which is located on a section of flat roof at the rear of the Property. The Terrace is enclosed along its rear edge (i.e. the edge that faces the back garden of the property) by metal railings to which timber fencing is attached. The other sides of the Terrace are enclosed by roof level parapet walls to the sides, and by a section of pitched roof along the front (road-facing) edge. The Terrace, which is decked, is accessed via a roof hatch which is reached internally via a spiral staircase which is located in the flat’s living room. The Terrace is therefore only accessible from within the Flat, and is for the exclusive use of the occupiers of the Flat.



*View of the Terrace looking south-west*



*View of the Terrace looking north-east*

### ***Relevant planning history***

The Planning permission approved the '*Change of use of 57 Parliament Hill. N.W.3 and works of conversion to provide four flats, formation of a mansard roof at the rear of the third floor and the formation of a roof terrace*', and was granted on 3<sup>rd</sup> April 1974. The Planning Permission includes various approved drawings including those numbered D3A and D4A.

Drawing D4A includes a roof plan which indicates that a terrace ("the Approved Terrace") would be located in the rear part of the roof, and the same drawing shows the rear edge of the Approved Terrace to be enclosed by railings. Drawing D3A indicates that the Approved Terrace would be accessed by a spiral staircase located within a lobby located between the kitchen and living room of the Flat. The location of the stair access for the Approved Terrace therefore differs from the location of the stair access for the Terrace.

No other relevant planning history, including any planning enforcement history, has been identified.

### ***The existing use for which the LDC is sought***

The LDC is sought in respect of the existing use of part of roof of the Property as the Terrace with associated railings, fencing and roof access hatch. The application is made on the basis that the Terrace and associated means of enclosure and access have been in place continuously for the last 4 years ending with the date of this application.

### ***Supporting evidence***

Evidence in support of the LDC is submitted in the form of three statutory declarations and associated exhibits. In addition, copies of the Planning Permission and associated approved drawings D3A and D4A are also included with the application.

#### **The statutory declaration of Mr Christopher Pitchford**

Mr Pitchford explains that he and his wife purchased the Flat in 1996. They occupied the Flat until 2002, and thereafter the Flat has been rented out to various tenants. The Terrace, the subject of this application, is described by Mr Pitchford who confirms that it has been in place throughout his period of ownership, i.e. since at least 1996.

Mr Pitchford also draws attention to the Flat's lease, dated 21<sup>st</sup> May 1976, the First Schedule of which confirms that the Terrace forms part of the demise of the Flat (Exhibit CCGP 1). A plan attached to the lease, and exhibited as part of Mr Pitchford's statutory declaration (Exhibit CCGP 2), shows the position of the Terrace and the access hatch.

Mr Pitchford's declaration refers to, and provides as an exhibit (CCGP 3), the 1996 sales particulars for the Flat, as prepared by estate agents, Benham & Reeves. These particulars describe and include a photograph of the Terrace. This photograph shows that, at that time, there was no timber fencing attached to the Terrace railings. Mr Pitchford's declaration explains that the timber fencing was first installed in 1998, and was replaced by the existing fencing during 2010.

Mr Pitchford also describes recent refurbishment works to the Terrace. These include water proofing measures, replacement decking and a new cover for the access hatch. Details of these works are provided in a document prepared by his builders, and appended as an exhibit (CCGP 4) to Mr Pitchford's declaration.

#### The statutory declaration of Ms Barbara Galloway

Ms Galloway is the owner and occupier of Flat 1, 57 Parliament Hill. Her statutory declaration describes the Terrace to the Flat, and confirms that she has visited the Terrace on many occasions over the last 19 years. She states that the position, layout, enclosure and access arrangements of the Terrace have remained unchanged throughout this period.

#### The statutory declaration of Mr Joshua Wilson

Mr Wilson is an estate agent who has been employed by local agents, Amberden Estates, since 2004. He explains that Amberden Estates were asked to advise on the letting of the Property in October 2011, and that he visited the Flat in late 2011 and accessed the Terrace. He provides a photograph (Exhibit JW 1) of the Terrace supplied to his company during October 2011.

#### Other evidence

The Approved Terrace was an explicit element of the Planning Permission, and the approved drawings clearly show this be located across the full width of the Property in the rear part of its roof. The drawings also indicate that the Approved Terrace would be accessed from within the Flat, and would be enclosed by metal railings running along the full width of the rear edge of the roof, and by elements of roof structure on the other sides.

#### ***Assessment of evidence***

##### The Planning Permission

The Flat is an existing dwelling that was lawfully formed pursuant to the Planning Permission. The use of the flat roof immediately above the Flat as an external amenity area to serve the occupiers of Flat would therefore not have required planning permission (unless such use was prohibited by condition) because the roof forms part of the same planning unit. Any operational development associated with the formation of the terrace, other than that indicated on the approved drawings, would have required consent.

However, the Approved Terrace was expressly permitted by the Planning Permission which indicates (on the approved drawings) that it would be accessed from within the Flat, and that it would be enclosed by metal railings along its rear edge.

The Terrace is somewhat smaller than the Approved Terrace but its existing position falls entirely within the larger footprint of the Approved Terrace, as shown on approved drawing D4A. The position of the access stairs is also different to the current layout. Notwithstanding these minor differences, it is quite clear that a terrace (enclosed by railings along its rear edge) serving Flat 4 is lawful by virtue of the Planning Permission.

##### The sworn evidence

Without prejudice to the view that the Terrace is lawful by virtue of the Planning Permission, the submitted sworn evidence, which is consistent and corroborative, indicates conclusively that the Terrace and its means of enclosure and access arrangements have been in place and in continuous use since at least 1996. The exception to this is the existing timber fencing, attached to the metal railings, which has been in place for at least the last 11 years, and which replaced similar fencing which had been in place since 1998.

The sworn evidence is complimented by documentary evidence in the form of the lease plan, the agent's particulars and the photographs, all of which point to the Terrace being unchanged for a considerable period of time, and well in excess of 4 years. The oldest of the exhibited documents is the 1976 lease plan which shows the same position, size and access arrangement for the Terrace as exist today. It therefore seems likely that the minor differences between the Approved Terrace and the Terrace arose as part of the works carried when the Property was originally converted into 4 separate flats, pursuant to the Planning Permission granted in 1974.

The recent refurbishment works to the Terrace, as described in Mr Pitchford's evidence, did not result in any change to the position, size, access arrangements or means of enclosure of the Terrace, or in any material change to the appearance of the surfacing of the Terrace.

### ***Conclusion***

The submitted evidence, which is precise and unambiguous, indicates that, on the balance of probabilities, the Terrace and associated railings, fencing, and roof access hatch have all been in place for at least the last 4 years. Furthermore, the use of the Terrace is lawful by virtue of the lawful formation of the Flat, and by virtue of the express terms of the Planning Permission.

I therefore look forward to the early and favourable determination of the application. In the meantime, if the case officer requires any further information or needs to arrange a site inspection, please do not hesitate to contact me.

Yours faithfully,

*Christopher Wickham*

**CHRISTOPHER M. WICKHAM**

c.c. Mr and Mrs Pitchford