

<b>LDC Report</b>		6/03/2022
<b>Officer</b>		<b>Application Number</b>
Fast Track SC		2021/5223/P
<b>Application Address</b>		<b>Drawing Numbers</b>
48 Queen's Grove London NW8 6HH		195/E05; 195/PL20; 001-Section A-A; 001; EPV-050; GFW-01;6800/01/SK003
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>Authorised Officer Signature</b>
<b>Proposal</b>		
Implementation of planning permission reference 2007/6101/P granted on 03/07/2008 for 'demolition and rebuild behind the principle facades of the single family dwelling house (Class C3) including excavation at basement level to provide additional accommodation, dormer windows to roof, erection of a single storey rear extension to connect to new coach house and alterations to side vehicular access.'		
<b>Recommendation: Refer to Draft Decision Notice</b>		
<b>Assessment</b>		
<p><b>1. Application site</b></p> <p>1.1 The application site is an unlisted building located in the St John's Wood Conservation Area. The application building is a two-storey single family dwellinghouse, with existing storage space at basement level.</p> <p>1.2 There are no site specific Article 4 Directives, which have been applied to remove permitted development rights. There is a tree preservation order under 38H-G1 for 1x Robinia 'Frisia' 1958 TPO lists 1x Weeping willow, 2x Malus, 1x Cherry, 4x Lime on or adjacent to the application site. The site is subject to a number of underground development constraints including Slope Stability and Surface water flow and flooding.</p> <p><b>2. Proposal</b></p> <p>2.1 The application seeks to confirm that the development permitted by Planning Permission 2007/6101/P granted on 03/07/2008 was implemented in line with the attached conditions and the definitions of development outlined within the Town and Country Planning Act 1990. They therefore seek to confirm that the permission remains extant and that the carrying out of the balance of the operational works permitted would therefore not require further express consent.</p> <p>2.2 To satisfy the above, the applicant is required to demonstrate, on balance of probability that the previous permission was implemented in line with any pre-commencement condition, prior to three years before the expiry date of the decision (2<sup>nd</sup> July 2011).</p> <p><b>3. Applicant's Evidence</b></p> <p>3.1 The applicant has submitted the following information in support of the applications:</p> <ul style="list-style-type: none"> <li>• Application form</li> <li>• Site Location Plan</li> <li>• Site block plan</li> </ul>		

- Plans, elevations and sections (previously approved existing);
- Plans elevations and sections (previously approved proposed)
- Planning Statement Letter dated 25th October 2021
- Decision Notice 2007 6101 P
- Decision Notice 2011 1892 P
- Building Regulations Documentation
- Email Correspondence Regarding Commencement of Works
- Contractor Letter Regarding Work Programme
- Partial Piling Plan; Appendix 8 Photographs Showing Commencement of Piling Works;
- Statutory Declaration Regarding Commencement of Roof Removal Works;
- Photographs Showing Commencement of Roof Removal Works; Appendix
- Declaration Regarding Commencement of Roof Removal Works;
- Copy of Planning Obligation;
- Copy of Planning Obligation Payment

#### 4. Council's Evidence

##### **Planning history:**

4.1 A summary of the relevant planning history for the property is given below:

Planning History:

**2011/5298/P** - Erection of mansard roof with dormer windows following demolition of roof to main dwelling, erection of two storey coach house following demolition of existing coach house, erection of single storey link between coach house and main dwelling, excavation to provide basement level to main dwelling, installation of conservatory with associated terrace to rear, creation of two lightwells at rear and side and alterations to windows and doors to side and rear elevations - **Granted - 17/10/2012**

**2011/5432/C** - Demolition of the roof of existing family dwelling house (Class C3); and demolition and rebuild of existing Coach House. - **Granted - 31/10/2012**

**2011/1892/P** - Details of hard and soft landscaping, protection to trees during works and green roof pursuant to conditions 4, 6 and 7 of planning permission (ref 2007/6101/P) dated 03/07/08 for rebuilding behind the principle facades of the single family dwelling house (Class C3) including excavation at basement level, dormer windows to roof, erection of a single storey rear extension and alterations to side vehicular access. **Granted - 24/05/2011.**

**2009/3324/P** - Erection of a three storey residential dwelling house with basement extended underneath rear garden and underground parking (following demolition of existing two storey residential dwelling house and coach house) - **Refused - 24/11/2009** (NB previous planning permission and conservation area consent granted for partial demolition and rebuild behind front facade of single family dwelling house (Class C3) 2007/6101/P and 2007/6104/C).

**2009/3325/C** - Demolition of existing two storey dwelling and coach house (NB previous planning permission and conservation area consent granted for 'Partial demolition and rebuild behind front facade of single family dwelling house (Class C3)' 2007/6101/P and 2007/6104/C). **Refused – 24/11/2009**

**2007/6101/P** - Demolition and rebuild behind the principal facades of the single family dwelling house (Class C3) including excavation at basement level to provide additional accommodation, dormer windows to roof, erection of a single storey rear extension to connect to new coach

house and alterations to side vehicular access. – **Granted - 3/7/2008**

**2007/6104/C** - Demolition of rear elevation and roof of main house and complete demolition of Coach House. **Granted – 6/6/2008**

**CTP/J7/3/C/19658** Erection of a single storey building in the rear garden incorporating a swimming pool. **Granted – 29/11/1974**

## **5. Assessment**

5.1 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.

**What was the last day on which material operations could lawfully commence? (“the last day”)**

03/07/2011

**Were the material operations capable of being commenced on or before the last day? In other words, were all pre-start conditions that go to the heart of the permission discharged on or before the last day?**

Yes. The application includes 3 pre-commencement conditions no. 4 (landscaping), 6 (tree protection and 7 (green roof feasibility). Details for each condition were approved on 24/05/2011. The application is also subject to a legal agreement which secured payment of a Highways Contribution prior to implementation of development. This payment was made to the Council on 18/05/2011.

**Were material operations probably commenced on or before the last day?**

Yes. The applicant has provided sufficient correspondence, documents and statutory declarations, including photographic imagery of works. Between the 24 May 2011 and 31 May 2011 hoardings were erected to secure the site, piling commenced, part of the roof was removed and waste material including soil was removed.

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 development ref: 2007/6101/P has been implemented within the period prior to expiry of that permission as required under the Act.

### **Recommendation:**

Grant Certificate of Lawful development.