

06th June 2022
Our Ref: 20.5110

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London Borough of Camden
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c/o Town Hall
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Dear Sir/Madam,

Re: Application for Certificate of Lawfulness of Existing Use (LDC) for 3x Air Conditioning Units at 10 Antrim Grove, Belsize Park, London NW3 4XR

We write on behalf of our client, Ms Antonia Lester, (the “Applicant”) to submit an application for a Certificate of Lawful Existing Development application (CLUED) pursuant to s191 of the Town and Country Planning Act 1990 (as amended) in relation to 3x Air Conditioning (A/C Units) at 10 Antrim Grove, Belsize Park, London NW3 4XR (the “Site”).

The application is submitted in response to enforcement enquiry Ref - EN19/0638, received on the 22nd September 2020, which outlined that planning permission has not been obtained for the condenser units. This enforcement notice was later withdrawn by the London Borough of Camden on the 06th of July 2021.

The CLUED seeks confirmation that the A/C units are lawful on the basis that they have been installed at the Site for over four years since this enforcement enquiry was made.

The Site

The 3x A/C units in question are located on the side of the semi-detached residential property at 10 Antrim Grove, NW3 4XR. The Site is located within the Belsize Conservation Area and does not contain any statutory or locally listed buildings.

Legislation

Under Section 191 of the Town and Country Planning Act 1990 a person may make an application to the Local Planning Authority (LPA) for a Lawful Development Certificate, which shall be granted provided information is provided to the LPA satisfying the lawfulness of the use at the time of the application. A use is considered to be a lawful if no enforcement action may be taken against it.

Section 171B (1) of the Town and Country Planning Act 1990 states:



“Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.”

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 works are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

Evidence of Lawfulness

Given that the 3 x A/C units have been in place for the required four-year period, it is considered they are now lawful, and no enforcement action can be taken.

Accordingly, we submit the following information in support of this application:

- Statutory Declarations – Signed by the property’s owner, a neighbour and the property’s gardener. All statutory declarations have been witnessed by a solicitor.
- Photos of the Property after the Fire on 13th March 2016, in which the A/C units are in situ at the Site.
- News articles dated to March 2016 confirming date, time, and location of the fire.

All three Statutory Declarations confirm that the A/C units have been in situ at the site for over four years. The Applicant’s declaration confirms that the A/C units were installed in 2007.

In addition, the Applicant has provided photos of the Site following the fire in March 2016. These photos show that the A/C units were in situ on the date of the fire (13/03/2016).

News articles have also been provided which highlight the date and time of the fire at 10 Antrim Grove. An image has also been taken from an article published by the Camden New Journal which shows part of the A/C units in situ as well.

Closing

By virtue of the above, we are seeking confirmation that the A/C units are considered lawful, as they have been present at the site for at least four years prior to the date that the enforcement notice was served on the 22nd of September 2020. This is in line with Section 171B (1) of the Town and Country Planning Act 1990. We trust the submitted information is sufficient and we look forward to receiving confirmation that the application has been registered and validated.

Should you have any queries or require further information, please do not hesitate to contact me.

Yours sincerely

Zoe Curran

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