

LDC (Existing) Report		Application number	2022/3384/P
Officer		Expiry date	
Tony Young		04/10/2022	
Application Address		Authorised Officer Signature	
Flat A 23 Osprunge Road London NW5 2JD			
Conservation Area		Article 4	
n/a		Article 4 Direction (basements)	
Proposal			
Rear garden studio outbuilding.			
Recommendation:		Issue Certificate	
Introduction			
<p>The application site comprises a 3-storey terrace plus roof space residential property located on the south side of Osprunge Road. The building is not listed nor located in a conservation area and is situated within the Kentish Town Neighbourhood Area.</p> <p>The property has been divided into residential flats and the application relates to the rear garden associated with Flat A.</p> <p>The application seeks to demonstrate that, on the balance of probability, the existing studio outbuilding has been in place in the rear garden for more than four years before the date of this application, such that its continued use would not require planning permission.</p>			
Applicant's Evidence			
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Report from Cooke Fawcett Architects (application agent) dated 09/08/2022, including photographs and drawings, asserting that the contents and evidence provided demonstrate that the studio outbuilding has been in place in the rear garden for more than four years; • Photo sheet from Cooke Fawcett Architects (application agent) dated 09/08/2022, including .jpeg format photographs variously dated between 11/03/2013 to 24/03/2013, showing the studio building in situ at the time; • Email from Soutra Gilmour (applicant) dated 06/07/2022, including an invoice dated 25/03/2013 (ref. Inv.14/12) from Jason Parker Interior Solutions, stating the cost of a studio build. 			
<p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • An unnumbered site location plan showing the application site outlined in red; • Existing plan, section and elevations drawing (ref. CF-122-OSP-0105-B). 			
Council's Evidence			
<p>There is relevant planning history on the subject site, as follows:</p> <ul style="list-style-type: none"> • 2017/1244/P - Erection of rear ground floor extension. Certificate of Lawfulness issued dated 08/03/2017 			

Assessment

In regard to applications for a Certificate of Lawfulness, 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, nor any from others, to contradict or otherwise make the applicant's version of events less probable, 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 submission includes a report from Cooke Fawcett Architects (application agent) which contains photographs labelled from 2013 to the present and showing the building to be substantially unchanged during this period. Photographs have also been submitted in .jpg format with file references that suggest the outbuilding was in place in March 2013. This is supported by an invoice dated 25/03/2013 from Jason Parker Interior Solutions which indicates a cost associated with a studio build at the time.

Council records include a Certificate of Lawfulness application granted 08/03/2017 (ref. 2017/1244/P) for the erection of rear ground floor extension at the application site. The approved drawings include an existing plan and rear elevation drawing (ref. CF-122-OSP-0105-A) dated 01/03/2017 which shows the studio outbuilding to be in situ in the rear garden at the time.

It is therefore considered that the information provided by the applicant is sufficiently precise and unambiguous to demonstrate that, on the balance of probability, the studio outbuilding has been in place in the rear garden at the application site for the required period of at least four years before the date of the application. This being the case, and given the fact that the Council has evidence which supports the applicant's version of events, the existing studio outbuilding would not require planning permission. In this respect, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness