

LDC Report		31/10/2022	
Officer		Application Number	
Fast Track SC		2022/3339/P	
Application Address		Recommendation	
Flat 9, Queen Alexandra Mansions 3 Grape Street London Camden WC2H 8DX		Grant Lawful Development Certificate	
1st Signature		2nd Signature (if refusal)	
Proposal			
Implementation of planning permission 2017/4273/P and listed building consent 2017/5277/L dated 06/08/2019 for erection of roof extension to replace existing, and alterations to rear elevation.			
Assessment			
<p>1. Application Site The application site is comprises a flat on the 5th floor of a grade two listed building. The building dates back to the early 20th century. The principle frontage is on Grape Street and there is also a frontage on Shaftesbury Avenue. Currently there is a late 20th century roof extension that can be found on the frontage on Grape Street. The building is located in the Bloomsbury Conservation Area.</p> <p>2. Proposal 2.1 The application seeks to confirm that the development permitted by Planning Application 2017/4273/P granted on the 6/08/2019; Listed Building Consent 2017/5277/L granted on 8/08/2019 and Approval of Reserved Matters 2021/0427/P granted on 24/09/2021 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.</p> <p>Applicant's Evidence The applicant has submitted the following information in support of the application:</p>			

- Application form
- Site Location Plan
- Approval of Reserved Matters Granted - 24/09/2021
- Email from Planning Obligations - Approval of Draft Construction Management Plan - 21/10/2021
- S106 Discharge Notice - 2017/4273/P - 000035013- Rapleys - 26/07/2022 (4.1a Pay Contribution)
- S106 Acknowledgement – Receipt - 2017/4273/P – 000035012 - Rapleys –(4.1a Paid 26/07/2022)
- S106 Discharge Notice - 2017/4273/P - 000032727- 6/08/2019 - 21/10/2021(4.1b - Draft Construction Management Plan)
- Mark Wightman - Michael Drain Architect Statement- 2017/4273/P; 2017/ 5277/L - 4/08/2022
- NewWave London - Inv 2508 - Removal and Installation of Balustrade - 2/08/2022
- CIL - Form 1 - Additional Information - 4/08/2022
- Photographs Showing Commencement of implementation of Balustrade.
- New Balustrade - IMG_0588.JPEG
- New Balustrade - IMG_0599.JPEG
- New Balustrade - IMG_0600.JPEG

Council's Evidence

Planning History

2021/0427/P - Approval of Reserved Matters - Details of method of fixing the new balustrade to the historic fabric pursuant to condition 4a of application 2017/5277/L, dated 8/8/2019 for "Erection of roof extension to replace existing, and alterations to rear elevation. **Granted 24/09/2021.**

2017/5277/L - Listed Building Consent -Erection of roof extension to replace existing, and alterations to rear elevation.- - **Granted 8/08/2019**

2017/4273/P- Full Planning Permission - Erection of roof extension to replace existing, and alterations to rear elevation. **Granted 6/08/2019**

2015/1119/PRE – Replacement of existing roof top conservatory and extension of existing mansard roof to create additional residential accommodation with continued use of the external roof terrace area (grade II listed).**Granted 5/06/2015**

P14/12/B/37310 - Erection of a two-storey mansard extension to provide three additional residential units. **Granted 18/01/1984**

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.

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

05/08/2022

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 2 pre-commencement conditions no. 4a (Pay Contribution), 4b (Submit Draft CMP Plan for approval). 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 26/07/2022.

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 26 July 2022 and 4 August 2022.

All necessary pre-commencement planning, and listed building conditions were satisfactorily discharged by the Council. All necessary planning obligations were also satisfactorily discharged and the Council’s s106 officer was advised of the date that the development was to commence. A CIL Commencement Notice was served and acknowledged by the Council.

The works undertaken comprised a ‘material operation’ for the purposes of Section 56(4) of the Town and Country Planning Act, specifically “(a) any work of construction in the course of the erection of a building and (aa) any work of demolition of a building” and such works were carried out before the expiry of the planning permission and listed building consent.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the works commenced before the planning permission (2017/4273/P) & Listed Building Consent (2017/5277/L) expired, and as such, the implementation of the scheme would be lawful, and any work approved under these permissions and yet to commence can be completed. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Grant Lawful Development Certificate