

LDC Report		21/12/2022	
Officer		Application Number	
Miriam Baptist		2022/3617/P	
Application Address		Recommendation	
47 ½ Roderick Road London Camden NW3 2NP		Approve	
1st Signature		2nd Signature (if refusal)	
Proposal			
Commencement of works in accordance with condition 1 (within five years from date of permission) of planning permission PEX0300008 granted on 25/06/2003 for 'Addition of a second storey above existing roofline, insertion of a flank window at first and second floor levels, insertion of 2 rooflights to front roofslope, erection of a dormer extension in rear roofslope created, erection of a single storey rear extension and erection of a glazed lean-to to side of dwellinghouse.'			
Assessment			
<p>The site contains a two storey building which is in use as a single dwelling house. It is located on the west side of Roderick Road, and is semi-detached sharing a party wall with No 47 Roderick Road. The building is not listed and is located in the Mansfield Conservation Area.</p> <p>Planning History</p> <p>26115 - Change of use, including works of conversion, to form a single dwelling. – <i>Granted 27/04/1978</i></p> <p>9360151 - Demolition of roof and part rear wall in connection with the erection of rear and first floor extensions and construction of 2 additional floors at roof level. (Plans submitted). – <i>Withdrawn 14/12/1998</i></p> <p>9301360 - Erection of a two-storey rear extension and 2 additional floors at roof level. (REVISED Plans submitted). – <i>Withdrawn 14/12/1998</i></p> <p>PEX0300008 - Addition of a second storey above existing roofline, insertion of a flank window at first and second floor levels, insertion of 2 rooflights to front roofslope, erection of a dormer extension in rear roofslope created, erection of a single storey rear extension and erection of a glazed lean-to to side of dwellinghouse. – <i>Granted 25/06/2003</i>.</p> <p>Proposal</p> <p>The applicant seeks to confirm that the that development permitted under planning application PEX0300008 dated 25/06/2003 was implemented in line with the attached</p>			

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 remainder of the operational works permitted would therefore not require further express consent.

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 five years from the date of the decision. The decision was made on 25/06/2003 and condition 1 states that:

The development hereby permitted must be begun not later than the end of five years from the date of this permission.

Therefore, the expiry date of the permission is 25/06/2008.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- A Building Notice form submitted to Building Control dated 11/06/2018 stating commencement of work due on 16/06/2008.
- Correspondence (fax) to Mr K Pindoria of Building Control at LB from architect Ben Cousins dated 17th June 2008 regarding site visit the following day.
- Photographs of excavation work on site relating to rear extension
- Letter from Building Control department of LB Camden, dated 17 December 2008, confirming works commenced on site 16 June 2008 and noting they had stopped.
- Email chain between client and architect regarding works done to date, receipt of quote from party wall surveyor and potential arrangement of a Party Wall Award.
- Email between client/owner and tenant (23rd June 2008), and client/owner and builder (2nd July 2008) regarding the works which had already commenced, and Building Inspector's feedback that the excavation needs to be deeper which prolonged the works.
- Letter from builder Marcel Syron dated 03/08/2022 confirming excavation of foundations started on 16th June 2008 and took about a week.
- Sworn Affidavit from client/owner confirming their recollection of events at the time and evidencing telephone records to the builder and bank statements showing the payment of builder's fees at the time.
- Building Control email to architect (dated 28 June 2022) confirming there are no records for 2008 in response to email asking for the council's inspection notes and photographs.
- Application form
- Decision Notice for PEX0300008 dated 25th June 2003.

The applicant has also submitted the following plans:

- Location Plan, 100-05, 50.001, 50.002, 50.002 rev A, 100-01, 100-02, 100-03, 100-04, 200-01, 200-02, 200-03, 200-04, 200-05. 200-01 rev A, 200-002 rev A, 200-003 rev A, 150 200-004 rev A.

Assessment

This application seeks a Certificate of Lawfulness (Existing) to establish whether the commencement of planning permission reference PEX0300008, dated 25th June 2003, occurred lawfully (i.e. whether the permission has been lawfully implemented and therefore remains

extant).

The applicant is required to demonstrate that, on the balance of probability, planning permission reference PEX0300008 has been implemented prior to 5 years from the date of the permission.

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.

Section 56(2) of the Town and Country Planning Act 1990 states: “...development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out” and Section 56(4) defines a “material operation” as (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building.

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’ planning permission reference PEX0300008 (dated 25th June 2003) has been lawfully implemented.

Conclusion:

It is considered that the evidence submitted is adequate to demonstrate that, on the balance of probability, the works completed on site did constitute development and were begun within five years of the date of the original permission.

It is therefore confirmed that the planning permission has been lawfully commenced and remains extant.

Recommendation: Approve