

LDC (Existing) Report		Application number	2022/4521/P
Officer		Expiry date	
Tony Young		13/12/2022	
Application Address		Authorised Officer Signature	
41 Savernake Road London NW3 2JU			
Conservation Area		Article 4	
Mansfield		Article 4 Direction (basements)	
Proposal			
Rear dormer and front rooflight.			
Recommendation:		Issue Certificate	
Introduction			
<p>The application site is a 3-storey, semi-detached dwelling house located on the south side of Savernake Road, near the junction with Estelle Road to the west. The building is not listed and is located in Mansfield Conservation Area.</p> <p>The application seeks to demonstrate that, on the balance of probability, a rear dormer and front rooflight were completed and have been in existence for a continuous period of at least four years before the date of the application, such that their retention would not require planning permission.</p>			
Applicant's Evidence			
<p>The applicant has submitted the following documents in support of the application:</p> <ul style="list-style-type: none"> Cover Letter from OPEN London UK (agents) received 18/10/2022, containing various Google aerial images and a photograph originally submitted to the Council on 10/01/2012 and associated with a planning application (ref. 2012/0347/P) in relation to Flat 2, 35 Savernake Road. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> A site location and block plan drawing outlining the application site (ref. 22018-000 rev P1); Various existing drawings (ref. (22018-)001 rev P1, 002 rev P1, 003 rev P1, 004 rev P1, 005 rev P1, 006 rev P1, 007 rev P1). 			
Council's Evidence			
<p>There is relevant planning history, as follows, but no relevant enforcement action on the subject site:</p> <p><u>2012/0347/P</u> – Erection of a second floor rear extension with roof terrace and enlargement or rear dormer to existing flat (Class C3) - <u>granted planning permission dated 13/03/2012</u></p> <p><u>2017/1297/PRE</u> - The erection of a single storey rear extension at second floor to incorporate part of the existing roof terrace and installation of metal balustrade. <u>Advice given 11/04/2017</u></p>			
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 current application submission includes 3 x Google aerial images that show the relevant rear and front roofslopes as existing in 2015, 2017 and 2022 respectively. All images show the rear dormer and front rooflight which are the subject of this application as being in the same position and with an unchanged appearance. This is supported by an historic photograph associated with a planning approval (ref. 2012/0347/P) which the applicant asserts shows a rear dormer at the host property in 2012.

Council records confirm the inclusion of the historic photograph referred to by the applicant in the application submission for 35 Savernake Road (2012/0347/P). However, while the photograph appears to show a rear dormer at the property in 2012, it is not clear from the photograph whether this is the same dormer or not in terms of size or position. The Council's spatial and GIS database shows a smaller sized rear dormer in 2012 and therefore indicates this to be a different dormer to the one which is the subject of this application. As such, this particular evidence from the applicant is afforded limited weight in the assessment.

Nonetheless, Council records do confirm the existence of the rear dormer in question in March 2017, and indeed the front rooflight, as indicated by drawings and photographs associated with a request for pre-application advice at an adjoining property (no. 43 Savernake Road ref. 2017/1297/PRE).

This is supported by images from web-based mapping platforms, such as, Google Maps and Bing Maps, which provide views of the general positions and sizes of the rear dormer and front rooflight in aerial views and indicate that they have remained the same since at least 2015. In addition, views from Estelle Road provided by Google Street View in March 2018 clearly show the relevant rear dormer. Furthermore, images from the Council's spatial and GIS database also confirm the existence of both the rear dormer and front rooflight since at least 2014 and appear to show that they have remained as such until the present time.

Finally, it is noted that there are no conditions attached to any historic planning approval(s) relating to the application site that would prevent the relevant external works from being carried out.

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 rear dormer and front rooflight which are the subject of this application were completed and have been in existence for the required period of at least four years before the date of this application and appear to have remained as such until the present time. This being the case, and given the fact that the Council does not have any evidence to contradict or undermine the applicant's version of events, their retention would not require planning permission. In this respect, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness