

<b>LDC Report</b>	31/01/2023
<b>Officer</b>	<b>Application Number</b>
Fast Track SC	2022/5332/P
<b>Application Address</b>	<b>Recommendation</b>
Flat 2, 231 Exide House, Shaftesbury Avenue London Camden WC2H 8EL	Grant lawful development certificate
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Air-conditioning unit located on the external wall within a light well	
<b>Assessment</b>	
<p>The application site is located at Flat 2, 231 Exide House, Shaftesbury Avenue, London, Camden, WC2H 8EL</p> <p>The application relates to an existing Air-conditioning unit located within the rear lighwell.</p> <p>The building is not listed and is located in the Bloomsbury Conservation Area.</p> <p>The application seeks to demonstrate that the Air-conditioning unit has existed and been in use for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 or more years.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Invoice 4930: Pioneer Refrigeration Ltd - Air-conditioning installation - 15/11/2007;</li> <li>• Invoice 15372: HVAC &amp; Facilities Services - Maintainence of Air-conditioning - 28/8/2012;</li> <li>• NIC/EIC - Electrical Installation Certificate - 23/04/2008;</li> <li>• Photo from 2008 showing air-con grill internally; Email to/from Christopher Clarke - (Former owner of Flat 5) - 5/12/2022;</li> <li>• Email correspondence with Dimitri Ukraintsev: (former owner of Flat 3) - 1/12/2022</li> <li>• Current photograph.</li> </ul>	

The applicant has also submitted the following plans:

- Location Plan;
- Plan;

### **Council's Evidence**

There is no relevant planning history or enforcement action on the subject site.

### **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 air conditioning unit are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The applicant's evidence demonstrates that the air conditioning unit was installed in November 2007. Supporting evidence (maintenance agreements, correspondence and photographs) indicates that it has remained in place since this time.

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' the Air-conditioning Unit has existed and been in use for 4 years or more as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Approve**