

7 March 2023

24 Southwark Bridge Road
London
SE1 9HF

Development Management
Planning
London Borough of Camden

T 0203 268 2018

By email only

FAO Brendan Versluys

Dear Mr Versluys,

**Re: 60 South Hill Park, NW3
Application for Certificate of Lawfulness**

We hereby submit on behalf of Ms Emma Davies ('the Applicant') an application for a Certificate of Lawful Existing Use or Development pursuant to s191 of the Town and Country Planning Act ('the TCPA').

The application relates to the lawful use of the building at 60 South Hill Park NW3 2SJ ('the Site') as 2no. flats (Class C3). The application demonstrates that the Site has been continuously in that use for a period of more than 4 years and it is therefore the lawful use of the Site (i.e. immune from enforcement action) pursuant to s171B of the TCPA.

National Planning Practice Guidance ('NPPG') Paragraph: 006 Reference ID: 17c-006-20140306 states that in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. NPPG sets no minimum nor prescribed requirement for evidence to be submitted, only that it is sufficient on the balance of evidence to demonstrate the use is lawful.

In support of this application the Applicant submits:

1. This letter which sets out the Site's history of use,
2. Details of a 1968 planning permission that authorises use of the property as two flats and indicates its use as two flats was on-going prior to that application (i.e. prior to 1968)
3. Photographs of the interior of the property that show its internal fittings including two separate kitchens,
4. The Statutory Declaration of Mr Joshua Wilson who has been the Site's lettings agent since 2012.

We also invite a site visit by officers to further corroborate the evidence. We consider this evidence is sufficient to demonstrate on the balance of probabilities that the use is lawful and that a Certificate be granted.



SAFETY
SCHEMES IN
PROCUREMENT



We acknowledge that a recent and as yet undetermined planning application ref: 2022/4551/P indicated that the Site was in lawful use as a single dwellinghouse. This application was made by Ash Sakula architects who did not seek planning advice and misunderstood that the property was lawfully in use as two flats. That application will be amended in due course to adjust this error and its description of development changed to state that whilst it seeks an alternative arrangement for the flats (as well as various extensions and alterations) the new arrangement does not constitute development and no change of use or conversion is necessary or sought.

Background

The Site is a four-storey (incl. lower ground floor) former house built in the 19th century, situated on the west side of South Hill Park. It was likely built as a single dwellinghouse for affluent city workers as was typical of houses in South Hill Park and around Hampstead, but as was the case for such a great amount of London's inner-city housing stock it was converted to flats in the early or mid-C20.

The planning history for the Site includes a planning permission dated 8 May 1968 (Council refs 4887 / CTP/E8/2/3/4887R) for:

The conversion of premises into one self-contained maisonette and one self-contained flat and the rebuilding of external staircase at 60, South Hill Park, Camden.

The application form, site location plan, relevant drawings and the decision notice are enclosed at Enclosure One.

The application form (at section 3a.) indicates that at the time of the application (12 February 1968) the Site was arranged as two maisonettes. The application therefore sought approval for its conversion to a new arrangement, being a "large dwelling and one small flat". The submitted drawings indicate the existing and proposed arrangements.

The "proposed" arrangement in the 1968 permission is consistent with the arrangement of the Site as it is found today, as can be seen by comparing the proposed 1968 layout to the existing layout provided on drawings refs: SHP-003 P1 and SHP-004 P1 by Ash Sakula in relation to planning application ref: 2022/4551/P (Enclosure Two).

Enclosure Three is photographs of the interior of the property showing its internal fittings including separate kitchens for each of the existing flats.

The lower flat was occupied by the Site's owner, Mrs Harcourt (now deceased). The upper flat was let to tenants not part of her household on shorthold tenancies.

The layout of the Site is unusual in that there is no physical separation (e.g. a lockable door) separating the flats. The occupants of either flat could, in theory, freely enter the other's domain although this did not occur save for in exceptional circumstances (e.g. occasional visits or emergencies); the owner/occupier of the lower maisonette did not routinely enter the upper flat and vice versa. No occupier of the upper flat was – in the period evidenced in our Enclosure Four (Statutory Declaration with enclosures of Mr Joshua Wilson, Residential Lettings Manager, Amberden Estates) – a member of the owner/occupier's household and thus the property was not used as a single dwellinghouse. The lack of physical separation of the flats was therefore not

relevant to determining the manner in which the property was used as two flats by separate households which is its lawful use.

The Statutory Declaration of Mr Wilson at Enclosure Four attests that the Site has been in use as 2no. flats since at least September 2012 when Amberden Estates were instructed to find a tenant for the upper flat, on behalf of the owner (Mrs Harcourt) who as above was occupier of the lower maisonette throughout this period (and for some time before). On the balance of evidence available including the planning history referred to above it is likely the Site was in that use since about 1968, and likely beforehand. It is not necessary for us to demonstrate the details of the Site's history that far back in time.

The Statutory Declaration details that between September 2012 and August 2021 there were 5no. tenancies for different occupiers of the upper flat. The voids between tenancies were very short; usually a matter of days which is normal in the regular letting of a residential property and does not constitute a period of cessation of the lawful use or abandonment. The Statutory Declaration therefore demonstrates a period of approximately 9 years of continuous use as two flats.

The owner/occupier passed away in 2021 which brought about the termination of the final tenancy in August 2021 and the property's sale to the Applicant. The property has been vacant awaiting refurbishment since August 2021, however the Site's lawful use has not been changed by the period of vacancy since August 2021. Application ref: 2022/4551/P is evidence the property has not been abandoned but that efforts have been made to enable its redevelopment and refurbishment.

Closing

The application demonstrates that on the balance of evidence the Site has been in continuous use as 2no. flats for more than 4 years; i.e. between (at least) 2012 (and on the balance of probabilities significantly longer) and 2021, and that therefore a Certificate of Lawful Existing Use or Development should be granted.

Please contact me if you have any questions about this application.

Yours sincerely,



Grant Leggett
Director, Head of Boyer London

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Enclosures: Encl. 1 The 1968 planning permission
Encl. 2 Existing drawings from the 2022 planning permission
Encl. 3 Photographs
Encl. 4 Statutory Declaration of Joshua Wilson

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