

LDC (Existing) Report	Application number	2023/3219/P
Officer	Expiry date	
Fast Track Team	10/11/2023	
Application Address	Authorised Officer Signature	
55 Roderick Road London NW3 2NP		
Conservation Area	Article 4	
Mansfield	Basements	
<b>Proposal</b>		
Use as 6 x self-contained residential units.		
<b>Recommendation:</b>	Issue Certificate	
<p>Assessment</p> <p>The application seeks to demonstrate that the 6 self-contained residential units on 4 floors (Ground, First, Second and Third) have been in-situ in excess of 4 years and therefore do not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted dated Council Tax records for each flat-</p> <ol style="list-style-type: none"> <li>1. Flat 1, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 4 November 2017.</li> <li>2. Flat 2, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 28 October 2017.</li> <li>3. Flat 3, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 10 November 2017.</li> <li>4. Flat 4, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 28 October 2017.</li> <li>5. Flat 5, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 27 October 2017.</li> <li>6. Flat 6, 55 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 14 November 2017.</li> </ol> <p>The applicant has also submitted the following plans and information:</p>		

- Site Location Plan
- Floor Plans Ground Floor (Flat 1), Ground Floor (Flat 2), 1<sup>st</sup> Floor (Flat 3), 1<sup>st</sup> Floor (Flat 4), Second Floor (Flat 5) and 3<sup>rd</sup> Floor (Flat 6)
- Statutory Declarations of Damon Peddar and Shan Slavin dated 28<sup>th</sup> July 2023
- Assured Shorthold Tenancy Agreement (Flats 1, 2, 3, 4, 5 and 6)
- Certificates of Tenancy Deposit Protection (Flat 1) dated 19<sup>th</sup> November 2018 and 4<sup>th</sup> August 2020
- Certificates of Tenancy Deposit Protection (Flat 2) dated 19<sup>th</sup> November 2019 and 6<sup>th</sup> October 2021
- Certificates of Tenancy Deposit Protection (Flat 3) dated 4<sup>th</sup> June 2018 and 15<sup>th</sup> March 2021
- Certificates of Tenancy Deposit Protection (Flat 4) dated 4<sup>th</sup> October 2018 and 12<sup>th</sup> March 2021
- Certificate of Tenancy Deposit Protection (Flat 5) dated 31<sup>st</sup> October 2017, 29<sup>th</sup> May 2019 and 21<sup>st</sup> December 2021
- Certificate of Tenancy Deposit Protection (Flat 6) dated 4<sup>th</sup> December 2018 and 15<sup>th</sup> July 2019
- Energy Performance Certificates (EPC) for Flats 1, 2, 3, 4, 5 and 6
- Periodic Legislation (x4 pages)

#### Relevant Planning History:

**9300373 (Nos 55-57)** Retention of use as hostel accommodation for medical staff and refurbishment and unification of the two properties **Granted 08/07/1993**

**2003/3421/P (Nos 55-57)** Change of use from hostel accommodation for medical staff (Class C2) to a residential house in multiple occupation (HMO) (Class C3) **Withdrawn 27/01/2004**

#### **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.

The applicant's evidence includes Council Tax statements, statutory declarations, tenancy agreements, energy certificates, tenancy deposit scheme certificates which show a continuous use from October/November 2017 until the time of submission of the application in August 2023.

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 sufficiently demonstrate that 'on the balance of probability' the 6 flats have been in place for more than 4 years as required under the Act. The applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate.

**RECOMMENDATION:** Grant certificate of lawfulness