

LDC (Existing) Report	Application number	2023/3218/P
Officer	Expiry date	
Fast Track Team	10/11/2023	
Application Address	Authorised Officer Signature	
57 Roderick Road London NW3 2NP		
Conservation Area	Article 4	
Mansfield	Basements	
Proposal		
Use as 6 x self-contained residential units.		
Recommendation:	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"> 1. Flat 1, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 23 February 2018. 2. Flat 2, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 1 February 2018. 3. Flat 3, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 1 February 2018. 4. Flat 4, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 23 February 2018. 5. Flat 5, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 23 February 2018. 6. Flat 6, 57 Roderick Road, London, NW3 2NP – Council Tax became payable at this address on 23 February 2018. <p>The applicant has also submitted the following plans and information:</p>		

- Site Location Plan SP1
- Floor Plans Ground Floor (Flat 1), Ground Floor (Flat 2), 1st Floor (Flat 3), 1st Floor (Flat 4), 2nd Floor (Flat 5) and 3rd Floor (Flat 6)
- Statutory Declarations of Damon Peddar and Shan Slavin dated 28th July 2023
- Assured Shorthold Tenancy Agreement (Flats 1, 2, 3, 4, 5 and 6)
- Certificates of Tenancy Deposit Protection (Flat 1) dated 24th January 2018, 9th April 2021 and 26th July 2022
- Certificates of Tenancy Deposit Protection (Flat 3) dated 24th September 2018 and 9th March 2021
- Certificates of Tenancy Deposit Protection (Flat 4) dated 20th November 2018, 19th March 2019, 17th January 2020 and 24th February 2021
- Certificate of Tenancy Deposit Protection (Flat 5) dated 6th December 2018
- Certificate of Tenancy Deposit Protection (Flat 6) dated 12th March 2018
- 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, tenancy agreements, energy certificates, tenancy deposit scheme certificates which show a continuous use from February 2018 until the time of submission of the application in August 2023 or in respect of Flat 5 to 22 May 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