

Delegated Report LDC (Existing)		Analysis sheet	Expiry Date:	10/11/2023
		N/A / attached		Consultation Expiry Date:
Officer			Application Number(s)	
Blythe Smith			2023/1960/P	
Application Address			Drawing Numbers	
16 Constantine Road London NW3 2NG			See decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Use of the building as five self-contained flats (Class C3).				
Recommendation(s):	Approve Lawful Development Certificate			
Application Type:	Certificate of Lawfulness (Existing)			
Conditions or Reasons for Refusal:	Refer to Decision Notice			
Informatives:				

Site Description

The application site is a detached two-storey residential property (Class C3) which was subdivided into five self-contained flats at some point in the past. It is located within the Mansfield Conservation Area but is not listed.

Relevant History

Application site

No relevant planning history

Assessment

1. Proposal

- 1.1. This application seeks to demonstrate that the building has been in use as five self-contained units in their current layout for a period of four years or more, such that continued use would not require planning permission.
- 1.2. The applicant is required to demonstrate on the balance of probability that these self-contained residential units have existed continuously for a period of 4 years or more prior to the date of the application (15 May 2023).

2. Applicant's Evidence

- 2.1. The applicant has submitted the following information in support of their application:
 - Appendix 1 – Flat 1 documents
 - Appendix 2 – Flat 2 documents
 - Appendix 3 – Flat 3 documents
 - Appendix 4 – Flat 4 documents
 - Appendix 5 – Ground floor documents
 - Appendix 6 – Additional supporting documents
 - Appendix 7 - Housing benefit and tenancy agreements
- 2.2. The applicant has also submitted existing floor plans showing one flat at ground floor and two at each of the upper floor levels. The flat at ground floor is 'ground floor flat', flats 1 and 2 are at first-floor level, and flats 3 and 4 are at the second-floor level.

3. Council's Evidence

- 3.1. Separate self-contained properties behind their own locked doors are required to be registered for Council Tax. Council Tax records indicate that five flats at property paid Council Tax (registered as Flat Gnd Flr from 01/04/1993, Flat 3 from 11/09/2009, and Flats 1, 2, and 4 from 03/12/2009).
- 3.2. Discussions with Camden's housing team have confirmed that housing benefit has been recorded for Flats 1 since March 2022 and Flat 3 since 2014.
- 3.3. Conversions of properties into flats require approval under the Building Regulations. There are no records of subdivision within the Council's Building Control records.

4. Assessment

- 4.1. 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.

4.2. The Council does not have any evidence to contradict or undermine the applicant's version of events.

4.3. The information provided by the applicant is deemed to be sufficiently precise to demonstrate that 'on the balance of probability' the property has existed as five self-contained residential units for at least four years as required under the Act. Furthermore, the Council has no evidence to contradict or undermine the applicant's version of events.

5. Recommendation

5.1. Grant Lawful Development Certificate