

LDC Report		26/01/2023
Officer		Application Number
Fast Track SC		2022/5272/P
Application Address		Recommendation
156 Goldhurst Terrace London Camden NW6 3HP		
1st Signature		2nd Signature (if refusal)
Proposal		
Existing use of the entire building at 156 Goldhurst Terrace, London, NW6 3HP as one single family dwellinghouse.		
Assessment		
<p>The application site is located Goldhurst Terrace, London, Camden, NW6 3HP</p> <p>The application relates to the existing use of 156 Goldhurst Terrace, London, Camden, NW6 3HP as a single dwelling house.</p> <p>The building is not listed and is located in the South Hampstead Conservation Area.</p> <p>The application seeks to demonstrate that 156 Goldhurst Terrace, London, Camden, NW6 3HP has existed and been in use as a single dwelling house (Class C3) 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 and been in use as a single dwelling house for a period of 4 or more years.</p> <p><u>Applicant's Evidence</u></p> <p>The applicant who is the freeholder for the property has submitted the following information in support of the application:</p> <p><u>Statutory Declarations</u></p> <ul style="list-style-type: none"> - <u>D J Shani – 9/11/2022</u> - <u>G J Shani – 9/11/2022</u> - <u>A Metdervish – 23/11/2022</u> 		

- **A Shani – 23/11/2022**
- **CILL Application R Brinkman -12/2022**

Council Tax & Business Rates

Council tax liability has been confirmed via VOA website. It has been in payment continuously since 13/07/2015..

FLAT GND FLR 156 GOLDHURST TERRACE, London, NW6 3HP	Deleted	Camden
FLAT LGND FLR AT 156B GOLDHURST TERRACE, London, NW6 3HP	F	Camden
FLAT 1ST FLR 156 GOLDHURST TERRACE, London, NW6 3HP	Deleted	Camden
FLAT 2ND FLR 156 GOLDHURST TERRACE, London, NW6 3HP	Deleted	Camden
FLAT GND FLR FRONT 1ST FLR AND 2ND 156 GOLDHURST TERRACE, London, NW6 3HP	G	Camden

DELETED

FLAT GND FLR 156, GOLDHURST TERRACE, LONDON, NW6 3HP

Local Authority	Camden
Local authority reference number	5075893
Council Tax band	Deleted
Improvement indicator	No
With effect from	13 July 2015
Mixed-use property	No
Court code	None

FLAT LGND FLR AT 156B, GOLDHURST TERRACE, LONDON, NW6 3HP

Local Authority	Camden
Local authority reference number	5191893
Council Tax band	F
Improvement indicator	No
With effect from	22 December 2017
Mixed-use property	No
Court code	None

FLAT 1ST FLR 156, GOLDHURST TERRACE, LONDON, NW6 3HP

Local Authority	Camden
Local authority reference number	5075894
Council Tax band	Deleted
Improvement indicator	No
With effect from	13 July 2015
Mixed-use property	No
Court code	None

FLAT 2ND FLR 156, GOLDHURST TERRACE, LONDON, NW6 3HP

Local Authority	Camden
Local authority reference number	5075895
Council Tax band	Deleted
Improvement indicator	No
With effect from	1 April 2011
Mixed-use property	No
Court code	None

FLAT GND FLR FRONT 1ST FLR AND 2ND 156, GOLDHURST TERRACE, LONDON, NW6 3HP

Local Authority	Camden
Local authority reference number	5185227
Council Tax band	G
Improvement indicator	No
With effect from	13 July 2015
Mixed-use property	No
Court code	None

Utility Bills

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Existing 1st and 2nd Floor Plans - NW63HP-LDC22-02
- Existing – Lower Ground & Ground Floor Plans (1:100) - NW63HP-LDC22-01

Council's Evidence

Enforcement

EN19/0474 - Erection of fence at bottom of garden. **Completed 29/05/2019** - No Breach Found

EN14/0791 & EN14/0808 -01/08/2014 - Building works are currently under way as per permission granted to application ref:2014/2219/P but it is alleged that more roof lights are being installed than were permitted and other conditions are being flouted. **Completed 19/09/2014** – No Breach Found

Previous Planning History

2015/2962/P - Full Planning Permission

Alterations to front garden involving dropped kerb and front boundary wall to facilitate the creation of 2 off-street parking spaces. Refused **11/09/2015**

The reason for refusal was:

The proposed development would result in the loss of an on-street car parking space which would increase the pressure of on-street parking within a Controlled Parking Zone to the detriment of on-street parking conditions, and would also encourage the use of unsustainable forms of transportation in an area easily accessible by public transport.

2015/1754/P - Full Planning Permission

Conversion of two self-contained 2 bedroom flats into one 3 bedroom maisonette. **Granted- 1/06/2015**

This application related to 2 units which were located at first floor and second floor level which were converted to 1 residential unit. The plans show another unit at ground floor level referred to as the 'Garden Flat'

2014/6787/P – Full Planning Permission

Excavation of basement with front and rear lightwells, erection of a rear extension following the demolition of the existing rear extension, the formation of a side door to front facade, and replacement windows at front ground floor level to ground floor flat. **Granted – 4/12/2015**

This application was for ground floor alterations and a basement extension at provide additional accommodation to the existing ground floor flat. It does not give permission for use as the basement as a separate residential unit.

2014/5288/P - Full Planning Permission

Erection of single storey ground floor rear extension with green roof and alterations to ground floor front elevation fenestration including new entrance door to ground floor flat. **Granted – 16/10/2014**

2014/2219/P – Full Planning Permission

Use of rear flat roof area as terrace with timber balustrade including replacement of rear window with door at second floor level, installation of 1 front roof light and 2 rear roof lights and

replacement windows to the front elevation. **Granted – 17/06/2014**

Council Tax

Council Tax have confirmed that the liability for each property has been paid separately by the applicant since occupation in July 2015.

A site visit to the property was undertaken on the 12/09/2023. The officer was satisfied that 156 Goldhurst Terrace, London, NW6 3HP has been occupied for residential use for some time; the doorway to make the unit one unit was inspected and appeared to have be over 4 years old.

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 has provided evidence to demonstrate that they have been in occupation of 156 Goldhurst Terrace in its entirety and have used the property as self-contained family dwelling since 13 July 2015. The property has been in use solely by the Shani family since they moved there.

Council Tax records have been provided, whilst these are a useful indicator it is not proof of the way in which the property has been operating and that other factors must be taken into consideration.

The supporting statutory declarations indicate the way in which the property has been used and when that use began. The evidence also detail the way in which the external and internal doors are being used by the family.

Supporting Statement by Treatment Architecture Ltd confirms that 156 Goldhurst Terrace has a single gas supply and a gas central heating system whereby a single gas boiler feeds underfloor heating loops on all four floors of the house. An E.on gas statement has been submitted to evidence this.

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’ 156 Goldhurst Terrace, London, NW6 3HP has existed and been in residential use as a single family dwelling house for a period of more than 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

