

Delegated Report		Analysis sheet	Expiry Date:	13/05/2024
		N/A	Consultation Expiry Date:	N/A
Officer			Application Number(s)	
Alex Kresovic			2024/1065/P	
Application Address			Drawing Numbers	
Flat B 55 Iverson Road London NW6 2QT			Refer to Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Use of flat as a self-contained unit (Class C3).				
Recommendation(s):	Grant Certificate of Lawfulness (Existing)			
Application Type:	Certificate of Lawfulness (Existing)			
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				

Site Description

The application site is a three storey semi-detached building that is located within the Fortune Green and West Hampstead Neighbourhood Plan area. The subject application relates to Flat B which is located on the first floor.

Relevant History

9100282 - The erection of rear dormer and roof terrace in connection with extension to second floor flat. **REFUSED 06/08/1991.**

8703222 - Certificate of Established Use for use as three separate flats. **GRANTED 09/03/1988.**

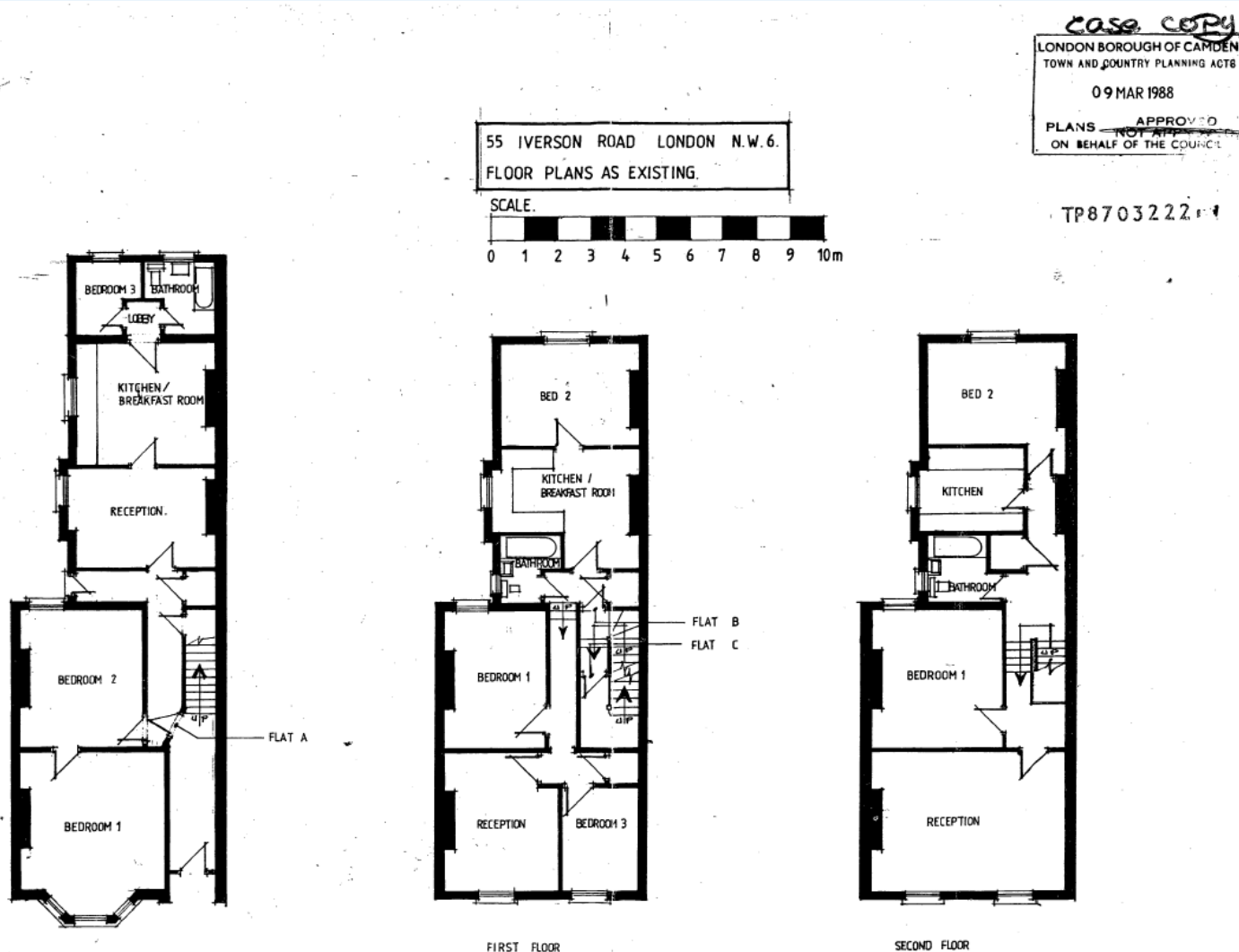
Assessment

Background

The certificate seeks to demonstrate that on the balance of probability that a self-contained unit at (Flat B) 55 Iverson Road, London, NW6 2QT has been in use as a self-contained flat (Use Class C3) for a consecutive period of at least four (4) years before the date of the application, such that its continued use would not require planning permission.

It is noted, the 'Certificate of Established Use for use as three separate flats' granted on the 9th of March 1988 under planning reference 8703222, has already established the premises as being three separate self contained units. (Flat B) at 55 Iverson Road, London, NW6 2QT continues to be used as a self-contained unit. This is consistent with the last known application in our records which demonstrated an existing use of 3 separate flats.

The plans submitted under 8703222, shown below, identifies that Flat B was located on the first floor, which to this day, is the case.



Applicant's Evidence

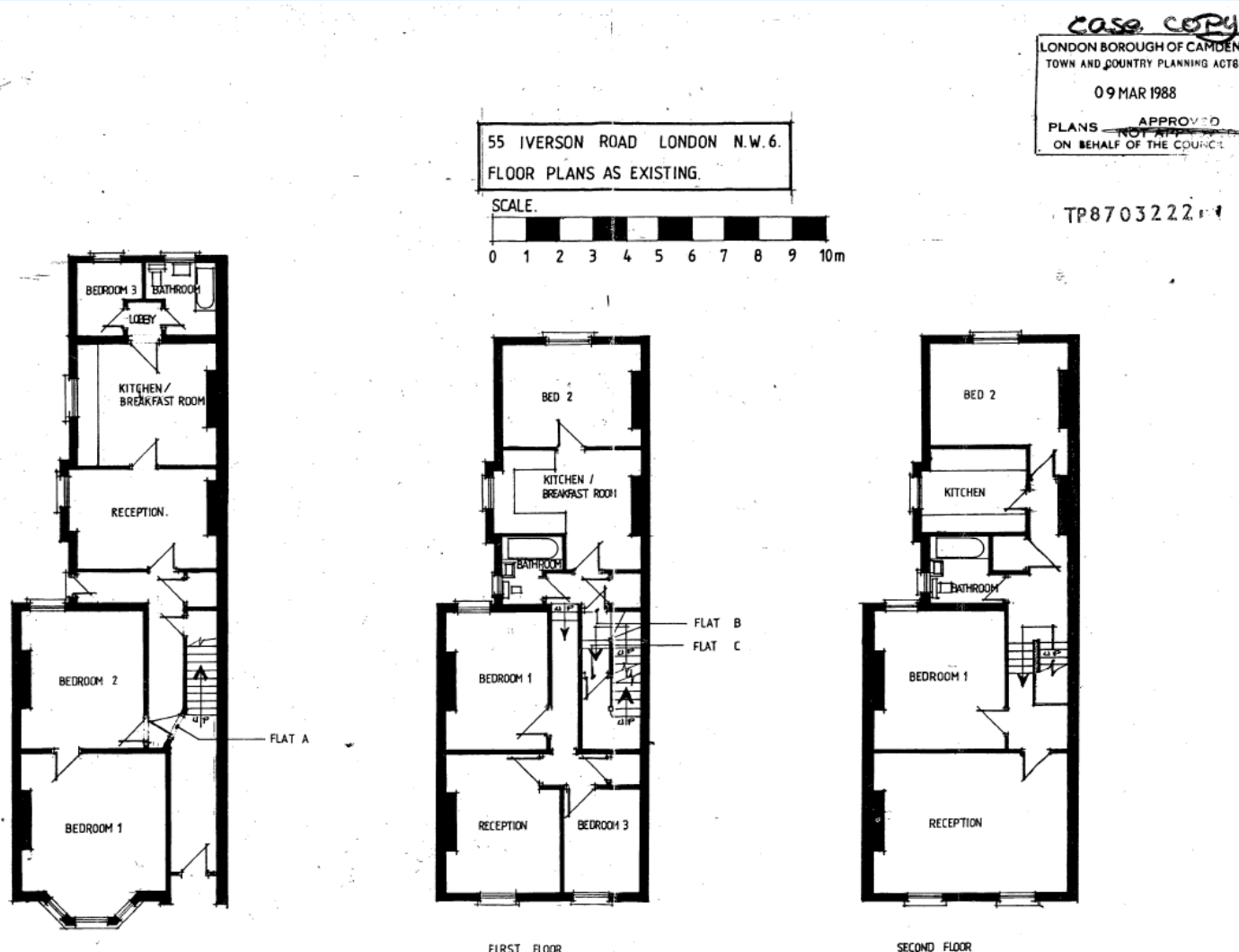
1. Location Plan & Existing First Floor Plan
2. Camden Electoral Register from 2018 to 2023
3. Camden Council Letters dated 16 October 2008 and 1 November 2008 from the Council's Tax Team Leader
4. Gas Safety Records from 2018 to 2023

5. Energy performance certificate
6. Tenancy agreements from 2017, 2019, 2020, 2021, 2022, and 2023
7. Site visit photos.

Council's evidence

The 'Certificate of Established Use for use as three separate flats' granted on the 9th of March 1988 under planning reference 8703222, has already established the premises as being three separate self contained units.

The plans submitted under 8703222, shown below, identifies that Flat B was located on the first floor, which to this day, continues to be used as a self-contained unit.



In addition, the submitted tenancy agreements from 2017, 2019, 2020, 2021, 2022, and 2023 state the tenancy agreement relates to the 'first floor flat' at 55 Iverson Road, which coincides with the energy performance certificate, Council's Tax records and with the approved floor plan from 1988 which all indicate Flat B being located on the first floor. Site photos also confirm that the flat is being used as a self contained flat in accordance with the approved plans from 1988.

The supporting documents submitted as part of the applicant's evidence demonstrate that at the time of issuing, the continued use of Flat B on the first floor as a self contained flat, as per the approved plans from 1988,

As such, the Council does not have any evidence to contradict or undermine the applicant's version of events, and therefore, judging the evidence submitted and the history of the site, officers are satisfied that Flat B, located on the first floor at 55 Iverson Road, London, NW6 2QT has been in use as self-contained flat (Use Class C3) for a period of 4 or more years continuously.

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 (Planning Practise Guidance para. 006), 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 application for the certificate relates to the existing use or operation of a self-contained unit (Use Class C3) at (Flat B) 55 Iverson Road, London, NW6 2QT. The application is made on the basis that the use is lawful because it is now immune from enforcement action because it has occurred for a continuous period of more than four years, before the date of the application – in other words since at least 15 March 2020 (“the relevant period”).

The Council does not have any evidence to contradict or undermine the applicant’s version of events. The supporting information submitted in support of the application demonstrates that a self-contained unit, known as Flat B, on the first floor, at 55 Iverson Road, London, NW6 2QT has been in use as a self-contained flat (Use Class C3) for a consecutive period of at least four years before the date of the application.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ that a self-contained unit at (Flat B) 55 Iverson Road, London, NW6 2QT has been in use as a self-contained flat (Use Class C3) for a consecutive period of at least four years before the date of the application as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Conclusion

Recommendation: Grant Certificate