

<h1>LDC Report</h1> <p>(Existing)</p>		
Officer Connie Marinetto		Application Number 2024/3111/P
Application Address 13 Daleham Gardens London Camden NW3 5BY		Recommendation Grant Certificate of Lawfulness (Existing)
Proposal Use of the property as a single dwellinghouse (Use Class C3).		
Assessment <p>The property is a four-storey detached dwelling. The site lies within the Fitzjohns Netherhall Conservation Area and is not listed.</p> <p>The application seeks to confirm the lawful existing use of the property as a single dwelling house (Use Class C3). Planning permission reference TP/704/W/6114 was granted in 1962 for the sub-division of the dwelling house. The applicant seeks to demonstrate that this permission was never implemented, thus a change of use never occurred, and the lawful existing use of the building is a single dwelling house.</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>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Council tax records • Google street view images <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Location Plan and Existing floor plans showing the current layout <p>Council's Evidence</p> <p>There is no relevant planning history or enforcement action on the subject site.</p> <p>Council tax records confirm one property has only ever been listed at this address.</p> <p>Furthermore, Google Street View Images between 2008-2022 show a single house number sign on the access gate which reads '13'. There is no evidence which suggests sub-division on the images.</p>		

The Planning Officer undertook a site visit on 04/09/2024 and it was confirmed that the layout of the property matches the submitted plans and the property is currently in use as a single dwelling house.

Based on the evidence submitted and the history of the site, Officers are satisfied that the property has been in use as a single dwelling house (Use Class C3) for a period of 4 or more years continuously. Further assessment and justification is provided below.

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 supporting information submitted in support of the application maintains that the property has been in use as single dwelling house (Use Class C3) for a consecutive period of at least four years before the date of the application. Council Tax records confirm one property has only ever been listed at this address. Google street images between 2008-2022 supports the assertion that the property has been used as a single dwelling house for at least 4 years and provides no evidence to suggest that the property has been sub-divided. Drawings and plans identify the site and provide details of the internal layout of the property. A site visit confirmed that the layout of the property matches the submitted plans. The details are consistent with the applicant's assertion that the property is in use as a single dwelling house.

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’, 13 Daleham Gardens, London, NW3 5BY, has existed and been in residential use as a single 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: Grant Lawful Development Certificate