

LDC Report

(Existing)

Officer

Connie Marinetto

Application Number

2024/5427/P

Application Address

2nd Floor Flat
29-31 Parkway
London
NW1 7PN

Recommendation

Grant Certificate of Lawfulness (Existing)

Proposal

Existing use of the second floor flat as a single residential dwelling (Class C3).

Assessment

The property is a two-bedroom flat located on the second floor of a mixed-use building. The ground floor is in commercial use and the first floor serves as ancillary space to the commercial use. The site lies within the Camden Town Conservation Area and is not listed.

The application seeks to confirm the existing use of the property as a single residential dwelling (Use Class C3) is lawful.

The application seeks to demonstrate that, on the balance of probability, that the residential use of the flat has always been the known lawful use of this part of the building, such that a retention of the use would not require planning permission.

The applicant is required to demonstrate, on balance of probability and has been lawful.

Applicant's Evidence

The applicant has submitted the following documents in support of the application:

- Parkway Council Tax Invoices
- Flat 2 Council Tax Reminders
- Council Tax Band Record
- Business Rates Valuation Record
- Royal Mail Address Finder
- Historic Planning Permissions
- Evidence Timeline

The applicant has also submitted the following plans:

- Existing Drawings
- 2018 Drawings

Council's Evidence

A site visit took place on 14/01/2025 and it was confirmed that the layout of the property matches the submitted plans, and the property is in use as a single residential dwelling (Class C3).

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

Judging the evidence submitted and the history of the site, officers are satisfied that the existing use of the flat as a single residential dwelling (Use Class C3) is lawful.

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 information submitted in support of the application maintains that the property has been in use as single residential dwelling (Use Class C3), with 14 continuous years of evidence provided to establish this. While the statutory 4 year period under Section 191 of the Town and Country Planning Act 1990 is sufficient to establish lawfulness in certain circumstances, the applicant argues that the residential use of this part of the building has always been lawful and does not rely on immunity from enforcement action. Therefore, the application seeks to confirm the continuous and lawful existing use of the flat over an extended historical period, rather than seeking to regularise an otherwise unlawful use.

A site visit confirmed that the layout of the property matches the submitted plans. 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', the existing use of the 2nd Floor Flat 29-31 Parkway, London, NW1 7PN, as a single residential dwelling (Use Class C3) is lawful. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve