

LDC (Existing) Report		Application number	2025/0648/P
Officer		Expiry date	
Tony Young		11/04/2025	
Application Address		Authorised Officer Signature	
23 Fordwych Road London NW2 3TN			
Conservation Area		Article 4	
No		Yes (basements)	
Proposal			
Use as 3 x separate residential units (Class C3) and rear extensions at ground floor level.			
Recommendation		Issue Certificate	
Introduction			
<p>The application site comprises a 3-storey, semi-detached residential building located on the eastern side of Fordwych Road, near the junction with Garlinge Road to the south-west.</p> <p>The site is not listed nor is it located within a conservation area. The site is situated within the Fortune Green and West Hampstead Neighbourhood Area.</p> <p>As from 25/04/2024, the period for which a potential breach of planning for residential dwellings and changes is exempt from enforcement has increased from four to ten years within England, as amended by the Levelling-up and Regeneration Act 2023 (LURA).</p> <p>The application therefore seeks to demonstrate that, on the balance of probability, the use as 3x separate residential units (Class C3) over ground, 1st and 2nd floor levels with rear extensions at ground floor level began at least four years before 25/04/2024, such that a retention of the use and works would not require planning permission.</p>			
Applicant's Evidence			
<p>The applicant has submitted the following <u>documents</u> in support of the application:</p> <ul style="list-style-type: none"> • <u>Cover Letter from Longlane Architects Ltd.</u> (agent) received 13/02/2025, providing a commentary on the planning history of the application site and referring to additional evidence in support of the assertion that the use of the property as three self-contained flats is lawful. • <u>Camden Council Enforcement Compliance Letter</u> (ref. LEGAL/DD/EN.632) dated 22/12/1988, stating that the works specified in enforcement notice (re. EN632) have been completed and therefore been complied with. • <u>Enforcement notice</u> (re. EN632) dated 23/02/1987. • <u>Combined Tenancy Agreements</u> (variously dated 2005 and 2023/24) in relation to Flats A, B and C respectively at the application site. • <u>Aerial/satellite images</u> (variously dated 1999, 2013 and 2024), stated as showing the ground floor rear extension, conservatory addition and current building layout in 2024 respectively • <u>Photographs</u> stated as showing the rear of the property in 2024, including an extension. <p>The applicant has also submitted the following <u>drawings</u>:</p> <ul style="list-style-type: none"> • <u>Site location plan</u> (unnumbered), outlining the application site in red 			

- Existing (as built) floor plans drawing (ref. 0000-LLA-A-03-1000), showing the existing layout of 3 x flats over ground, 1st and 2nd floor levels at the subject site

Council's Evidence

There is the following planning history relevant to the proposal at the subject site:

- **8601216** - The retention of a three storey and second floor rear extension and a change of use and works of conversion to form three self-contained flats. Planning permission refused 18/08/1986 / Appeal dismissed 1987 (T/APP/X5210/A/86/055930/P4)
- **28283** - The change of use to 3 self contained dwelling units including the erection of a single storey rear extension to accommodate a bathroom. Planning permission granted 26/07/1979

There is the following planning enforcement history relevant to the proposal at the subject site:

- **EN632** – The addition of a third floor with pitched roof to the pre-existing 2-storey rear extension. The replacement of the pre-existing ground floor outbuilding by a three-storey extension. Enforcement notice complied with and case closed 22/12/1988

There is the following additional information relevant to the subject site:

- Council Tax Valuation for band E property (Flat Gnd Flr 23 Fordwych Road London NW2 3TN) effective 01/04/1993 (Local authority reference number: 5097595)
- Council Tax Valuation for band D property (Flat 1st Flr 23 Fordwych Road London NW2 3TN) effective 01/04/1993 (Local authority reference number: 5097597)
- Council Tax Valuation for band D property (Flat 2nd Flr 23 Fordwych Road London NW2 3TN) effective 01/04/1993 (Local authority reference number: 5097596)

Assessment

In regard to applications for a Certificate of Lawfulness, 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 (National Planning Practice guidance). The relevant test is the 'balance of probability', and authorities are advised that if they have no evidence of their own, nor any from others, to contradict or otherwise make the applicant's version of events less probable, 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.

Overall, it is considered that the information provided by the applicant is sufficiently precise and unambiguous to demonstrate that, on the balance of probability, the use as 3 x separate residential units (Class C3) over ground, 1st and 2nd floor levels with rear extensions at ground floor level have been in existence at least four years before 25/04/2024, and have remained as such, for a continuous period until the present time.

Additionally, Council Tax Valuation records confirm the use as 3 x separate residential units (Class C3) over ground, 1st and 2nd floor levels since at least 1993.

This being the case, and given the fact that the Council does not have any evidence to contradict or undermine the applicant's version of events, the use as 3 x separate residential units (Class C3) over ground, 1st and 2nd floor levels with rear extensions at ground floor level is lawful and would not require planning permission. As such, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness