

<b>LDC (Existing) Report</b>		<b>Application number</b>	2025/0429/P
<b>Officer</b>		<b>Expiry date</b>	
Geri Gohin		04/04/2025	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
Flat 1 <sup>st</sup> and 2 <sup>nd</sup> Floors 69 Regent's Park Road London NW1 8UY			
<b>Conservation Area</b>		<b>Article 4</b>	
Primrose Hill		Article 4 Direction (Basements, Heritage and Conservation & Land Use)	
<b>Proposal</b>			
Use of flat over first and second floors as one residential flat.			
<b>Recommendation</b>		<b>Issue Certificate</b>	
<p><b>Introduction</b></p> <p>The application site comprises a 3-storey end of terrace building located at the junction with Chamberlain Street. The building is in commercial use on ground floor with the upper floors being in residential use. Flat 1<sup>st</sup> and 2<sup>nd</sup> Floors (also known as Flats A and B) occupy the 1<sup>st</sup> and 2<sup>nd</sup> floors and are the subject of this application.</p> <p>The site is not listed and is located within the Primrose Hill Conservation Area.</p> <p>The application seeks to demonstrate that, on the balance of probability, the use of Flat 1<sup>st</sup> and 2<sup>nd</sup> Floors as a single residential unit began at least four years before the date of the application, such that a retention of the use would not require planning permission.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following <u>documents</u> in support of the application:</p> <ul style="list-style-type: none"> <li>• A Letter from London Borough of Camden, Housing Support Services, (ref. EPOJA), dated 8th November 2024, confirming that the property has been unoccupied since 6<sup>th</sup> July 2022 (Flat A) and 1<sup>st</sup> February 2020 (Flat B).</li> <li>• A Statutory Declaration from Brian Cox (applicant, current owner and acquaintance of Mr Hirayama and his partner since 2013) dated 27<sup>th</sup> January 2025 confirming that the layout has been in place since at least 2013 and enjoyed as one family dwelling.</li> <li>• A Statement from Brenda Roberts (who has known Mr Hirayama and his partner for about 47 years) dated 17<sup>th</sup> March 2025 confirming that both flats were used as one single unit since at least 1991.</li> <li>• A Statutory Declaration from Mr Jon Pishiri, Jon Christopher Chartered Surveyors (freeholder of the property for approximately 10 years) dated 5<sup>th</sup> March 2025 confirming that during this period, the upper floors were arranged as one single dwelling.</li> <li>• Existing Photographs dated 6<sup>th</sup> February 2025 (x 2 pages).</li> <li>• A schedule of condition and dilapidations report from Quest Property Consultants dated 25<sup>th</sup> March 2022 (x 13 pages).</li> <li>• A Copy of the Lease for 69B Regent's Park Road dated 14<sup>th</sup> April 1992 (x 22 pages).</li> <li>• A Copy of the Lease for 69A Regent's Park Road dated 14<sup>th</sup> April 1992 (x 24 pages).</li> <li>• An email from Hannah Bayer (Associate Solicitor for Gillhams Solicitors LLP) dated 6<sup>th</sup> November 2024 confirming one account for Gas, Water and Electricity bills and two separate accounts for Council Tax bills.</li> </ul>			

The applicant has also submitted the following drawings:

- Site location plan outlining the application site in red.
- Floor plan drawings (P01) for Ground, 1<sup>st</sup> and 2<sup>nd</sup> Floors dated 05/02/2025.

### **Council's Evidence**

There is no planning history relevant to the proposal at the subject site.

There is no relevant planning enforcement history for the subject site.

There is the following additional information relevant to the site:

- Council Tax Valuation for band D property (Flat 1<sup>st</sup> Floor, 69 Regent's Park Road, London, NW1 8UY) effective 1<sup>st</sup> April 1993 (Local authority reference number: 5089987).
- Council Tax Valuation for band C property (69B Regent's Park Road, London, NW1 8UY) effective 1<sup>st</sup> April 1993 (Local authority reference number: 5118122).

Council Tax have confirmed that they have sent a report to the VOA (Valuation Office Agency) recommending a merger of the two properties with an effective date of 28<sup>th</sup> October 2024.

Council Planning Officers visited the property on 26<sup>th</sup> February 2025 and confirm the layout as demonstrated on the floor plans submitted by the appellant. There is a door between the first and second floor however there is only one kitchen (on 1<sup>st</sup> floor) and one bathroom (on 2<sup>nd</sup> floor) which demonstrate that the property could not have been used as more than one dwelling. Furthermore, the property has been left in its current state (as shown on the photographs submitted by the appellant) and no recent works appear to have been done.

There has been a comment from the Primrose Hill CAAC and this has been addressed separately in the consultation summary.

**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.

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 of Flat 1<sup>st</sup> and 2<sup>nd</sup> Floors as a single residential unit (also known as Flat A and B) began at least four years before the date of the application, and has continued as such, for a continuous period until the present time.

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 of Flat 1<sup>st</sup> and 2<sup>nd</sup> Floors as a single residential unit 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**