

LDC (Existing) Report		Application number	2025/0717/P
Officer		Expiry date	
Tony Young		16/04/2025	
Application Address		Authorised Officer Signature	
30 Mazenod Avenue London NW6 4LR			
Conservation Area		Article 4	
No		Yes (basements)	
Proposal			
Use as 4 x self-contained residential flats (Class C3).			
Recommendation		Issue Certificate	
<p>Introduction</p> <p>The application site comprises a 3-storey, terraced residential building located on the western side of Mazenod Avenue. The site is not listed nor is it located within a conservation area. The site is situated within the Kilburn 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 4 x self-contained residential flats (Class C3) over ground, 1st, 2nd and 3rd floor levels began at least four years before 25/04/2024, and has been in continuous use in this way, such that a retention of the use would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following <u>documents</u> in support of the application:</p> <ul style="list-style-type: none"> • <u>Planning Assessment from Saloria Architects Ltd.</u> (agents) dated 30/10/2024, providing commentary in support of the application assertion that the property has been in continuous residential use as 4 x self-contained flats (Class C3) since 2017. • <u>Annex 1 - Tenancy agreements</u> (Flats 1-4) dated variously, confirming the occupation of 4 flats at the property between 2017 to 2024. • <u>Annex 2 - Bank Statements</u> (various), showing rent payments received by Khetani Investments Limited (applicant) from the tenants for each of the 4 flats since 2018. • <u>Annex 3 - Council Tax records</u>, confirming separate records for each flat at the property since 2017. • <u>Annex 4 - Land Registry dated 2021</u>, confirming land registry documents and registration for each flat at the property since 2021. • <u>Annex 5 - Thames Water letter and emails</u> dated 2021, regarding separate water supplies for each flat and confirming that 4 flats existed at the property before 25/04/2024. • <u>Annex 6 - British Gas Utility Bills</u> (various), indicating the existence of 4 flats at the property since 2017. • <u>Annex 7 & 8 – Photographs</u> (showing meter boxes, hallways, rooms, rear garden, etc.) 			

- Annex 9 - Google Earth Satellite Images dated between 2017 and 2020, showing a single storey rear extension between 2018/19 and additional development of rear extension to replace the previous extension.
- Annex 10 – Photographs (showing foundation and other construction works on site from 2018 in regard to the works to erect a rear single storey extension)
- Annex 11 - Building Control certificate dated 2018, confirming the construction of a single storey rear extension at the property
- Annex 12 – Drawings (see below)
- Annex 13 - Timeline of evidence overview (in regard to all evidence provided).

The applicant has also submitted the following drawings:

- Site location and block plans (ref. (170203-)00-P0 and 02-P0) outlining the application site in red.
- Existing floor plans (ref. 170203-01-P0) showing the relevant floor areas.

Council's Evidence

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

- PW9902483 - Erection of a rear dormer to create extra rooms in the attic, and installation of 3 velux windows. Certificate of Lawfulness (proposed) issued 13/07/1999

There is no planning enforcement history associated with the subject site.

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

Council Tax records:

- Valuation for band C property (Flat Gnd Flr 30 Mazenod Avenue London NW6 4LR) effective 20/04/2007 (Local authority reference number: 5123041)
- Valuation for band D property (Flat 2, 1st Flr 30 Mazenod Avenue London NW6 4LR) effective 15/12/2017 (Local authority reference number: 5192028)
- Valuation for band C property (Flat 3, Part 2nd Flr 30 Mazenod Avenue London NW6 4LR) effective 15/12/2017 (Local authority reference number: 5192029)
- Valuation for band D property (Flat 4, Part 2nd & 3rd Flrs 30 Mazenod Avenue London NW6 4LR) effective 15/12/2017 (Local authority reference number: 5192030)

House in Multiple Occupation (HMO) License database:

- Licence (ref. 94607) commencing on 20/09/2021 / ending on 19/09/2026 in regard to 'Flat Ground, 30 Mazenod Avenue London NW6 4LR'
- Licence (ref. 94611) commencing on 20/09/2021 / ending on 19/09/2026 in regard to 'Flat 2, 30 Mazenod Avenue London NW6 4LR'

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.

While there are 2 x active 'House in Multiple Occupation' (HMO) licences in relation to Flat Ground and Flat 2, the applicant has confirmed that no part of the property has ever been in

use as an HMO since he purchased the property in 2017. The applicant applied for HMO licences for the 2 flats in question when he bought the property when he was considering possible tenants to occupy the flats. However, this form of tenancy never transpired. The applicant states that as the HMO licence fees had already been paid, he did not take any action to withdraw the licences and these have therefore remained active despite the property only ever being in use as 4 x self-contained residential flats.

Council Tax Valuation records confirm the division of units into 4 x separate residential flats (Class C3) for the ground floor flat since 2007 and the other upper floor flats since at least 2017.

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 4 x self-contained residential flats (Class C3) over ground, 1st, 2nd and 3rd floor levels 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.

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 4 x self-contained residential flats (Class C3) over ground, 1st, 2nd and 3rd floor levels 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