

LDC Report		31/12/2013
Officer		Application Number
Carlos Martin		2013/7071/P
Application Address		Recommendation
97 Fordwych Road London NW2 3TL		Grant
1st Signature		2nd Signature (if refusal)
Proposal		
Use of building as 8x self-contained units and 2x non self-contained units.		
Assessment		
<p>The application site is located on the east side of Fordwych Road. It is a three-storey plus attic semi-detached property registered as a HMO. The building is not listed and is not located within any Conservation Area.</p> <p>The application relates to the use of the building as 10 units: 8 self-contained ones and 2 non self-contained ones.</p> <p>The application seeks to demonstrate that the use of the building as 10 units has existed for a period of 10 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing internal lay out has existed for a period of 10 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"> • 1 valuation report from 1998 describing the property as containing 10 units: 3 on each floor and 1 in the attic, most of them self-contained. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site; and • Floor plans for each level. <p>Council's Evidence</p>		

Planning permission was granted on 08/01/1969 (ref 6296) to convert the property into seven self-contained flats, including extensions to the third floor. There is no other relevant planning history or enforcement action on the subject site.

The Housing department has confirmed that the property is a registered HMO, containing 10 units, two of which are not self-contained.

A site visit to the property was undertaken on the 20/11/2013. The officer was satisfied that the submitted floor plans were accurate and that there are 10 units in total.

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 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 10 units have existed for a period of more than 10 years as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Approve