

<b>LDC Report</b>		06/02/2013
<b>Officer</b>		<b>Application Number</b>
John Nicholls		2012/6476/P
<b>Application Address</b>		<b>Recommendation</b>
Flats C & D, 16 Maygrove Road London NW6 2EB		Grant certificate
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>		
The use of the second and third floors as two separate self-contained flats (C3).		
<b>Assessment</b>		
<p>The application site is located on the southern side of Maygrove Road and lies mid – terrace close to the junction with Shoot-Up Hill. The application relates to a residential property divided into flats. The building is not listed nor is it located in a Conservation Area.</p> <p>The application seeks to demonstrate that the flats at first and second floor levels have existed for a period of 4 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 residential unit has existed for a period of 4 or more years.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <p><u>Flat C</u></p> <ul style="list-style-type: none"> <li>• 1 year tenancy agreement for the period 29<sup>th</sup> September 2008 – 28<sup>th</sup> September 2009;</li> <li>• 1 year tenancy agreement for the period 4<sup>th</sup> April 2009 – 3<sup>rd</sup> April 2010;</li> <li>• 1 year tenancy agreement for the period 19<sup>th</sup> September 2009 – 18<sup>th</sup> September 2010;</li> <li>• 1 year tenancy agreement for the period 1<sup>st</sup> November 2010 – 31<sup>st</sup> October 2011;</li> <li>• Gas safety certificate dated 21/08/2009;</li> <li>• Gas safety certificate dated 24/08/2010;</li> <li>• Council Tax records showing Council Tax paid since 18/08/2008;</li> <li>• Statutory declaration by Lyndi Norman who had owned the flat since 6<sup>th</sup> June 2008 and that the flat had been laid out as per plan 120822/02 since she has lived there.</li> </ul>		

#### Flat D

- 1 year tenancy agreement for the period 15<sup>th</sup> August 2008 – 14<sup>th</sup> August 2009;
- 1 year tenancy agreement for the period 25<sup>th</sup> September 2009 – 24<sup>th</sup> September 2010;
- 1 year tenancy agreement for the period 25<sup>th</sup> September 2010 – 24<sup>th</sup> September 2011;
- 1 year tenancy agreement for the period 1<sup>st</sup> November 2010 – 31<sup>st</sup> October 2011;
- Gas safety certificate dated 13/08/2008;
- Gas safety certificate invoice dated 14/08/2008;
- Gas safety certificate dated 27/08/2009;
- Gas safety certificate dated 26/08/2010;
- Council Tax records showing Council Tax paid since 18/08/2008;
- Statutory declaration by Phillip Norman who had owned the flat since 6<sup>th</sup> June 2008 and that the flat had been laid out as per plan 120822/02 since she has lived there.

#### Flats C and D

- Statutory declaration by Maygrove Road Limited (freehold owner) that the flat have been laid out as per plan 120822/02 since 24<sup>th</sup> September 2008 and that since then both flats have been laid at as per the plan 120822/02.

The applicant has also submitted the following plans:

- A site location plan outlining the application site;
- A plan showing the as existing layout of the whole showing the flats property dated August 2012 (drawing number 120822/02).

### **Council's Evidence**

#### Planning history

**33954** - Change of use and works of conversion to form a self-contained flat on the ground floor and a self-contained maisonette on the first/second floors; and the construction of a small rear extension at basement level – Granted - 25/05/1982

**7928** - Alterations to self-contained lower flat and erection of bathroom extension at rear – Granted - 01/01/1970

**PWX0002362** – Certificate of lawfulness for the use of first and second floors as two non self-contained flats sharing common bathroom and WC, - Granted - 19/12/2000

Council tax has confirmed that the liability for Council Tax for two separate flats started on 18/08/2008. It has been in payment continuously since then.

A site visit to the property was undertaken on the 4<sup>th</sup> February 2008. The officer was satisfied that unit D on the second floor was being used as a self-contained flat. There was no access to flat C on the first floor. However, the rest of the common parts were laid out as per the submitted drawing.

### **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 lower ground floor unit has existed in residential use for a period of more than 4 years as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

**Recommendation: Approve**

**Disclaimer**

***This is an internet copy for information purposes. If you require a copy of the signed original please contact the Culture and Environment Department on (020) 7974 5613***