

<b>LDC Report</b>		25/12/2012	
<b>Officer</b>		<b>Application Number</b>	
Carlos Martin		2012/4311/P	
<b>Application Address</b>		<b>Recommendation</b>	
Flat 1 Wash House Yard 79 Kentish Town Road London NW1 8NY		Grant	
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>			
Use of lower ground and ground floor of building fronting Kentish Town Road as a self-contained flat (Class C3).			
<b>Assessment</b>			
<p>The application site is located on the west side of Kentish Town Road. The building is not listed and is not located within any conservation area.</p> <p>The application seeks to demonstrate that a single dwelling unit has existed in this address 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> <ul style="list-style-type: none"> <li>• 1 year tenancy agreement for the period 22<sup>nd</sup> November 2007 to 21<sup>st</sup> November 2008.</li> <li>• 1 year tenancy agreement for the period 22<sup>nd</sup> November 2008 to 21<sup>st</sup> November 2009.</li> <li>• 1 year tenancy agreement for the period 5<sup>th</sup> August 2009 to 4<sup>th</sup> August 2010.</li> <li>• 1 year tenancy agreement for the period 28<sup>th</sup> July 2010 to 27<sup>th</sup> July 2011.</li> <li>• 1 year tenancy agreement for the period 11<sup>th</sup> June 2011 to 10<sup>th</sup> June 2012.</li> <li>• 1 year tenancy agreement for the period 11<sup>th</sup> June 2012 to 10<sup>th</sup> June 2013.</li> <li>• A statutory declaration from the owner of the property since 5<sup>th</sup> August 2007 stating that since then the property has been solely and continuously used as a self-contained residential unit.</li> <li>• A copy of a Directgov search from 06/08/2012 stating that Council Tax band C has been established from 22/11/2007.</li> </ul>			

The applicant has also submitted the following plans:

- A site location plan outlining the application site.
- A lower ground floor plan of the property.
- A ground floor plan of the property.
- A front elevation photomontage.

### **Council's Evidence**

There is no relevant planning history or enforcement action on the subject site. A site visit to the property was undertaken on 5/12/2012. The officer was satisfied that the unit had been occupied for residential use for some time and the lay out of the unit corresponded to the submitted floor plans.

### **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 subject 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 telephone Contact Camden on (020) 7974 4444***