

LDC Report		30/11/2012
Officer		Application Number
Gideon Whittingham		2012/5011/P
Application Address		Recommendation
7 Lupton Street London NW5 2JA		Refer to Decision Notice
1st Signature		2nd Signature (if refusal)
Proposal		
Use of ground, first, second and third floor as an HMO (Sui Generis).		
Assessment		
<p>The site relates to a 4 storey mid-terraced building located on the west side of Lupton Street, directly opposite St Benet and All Saints' Church.</p> <p>The building is not listed, nor is it located within a conservation area.</p> <p>This application relates to the upper floor levels, namely the ground, first, second and third floor levels. The basement floor is used as a separate self contained unit.</p> <p>The ground floor comprises a front (15sqm) and rear (14sqm) room with a bathroom at the end of the main entrance hallway. The first floor comprises two front rooms (10sqm and 13sqm), a single rear room (10sqm) and a bathroom off the hallway landing to the rear. The second floor level comprises two front rooms (10sqm and 8sqm – used as kitchen), a single rear room (10 sqm) with a bathroom in between. The third (top) floor comprises one front (14sqm) and one rear room (14sqm).</p> <p>The application seeks to demonstrate that the ground, first, second and third floor levels of the building have existed as 9 non-self contained units with shared washing and cooking facilities (HMO), 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 ground, first, second and third floor levels of the building have been in use as a house of multiple occupation (HMO) 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>		

- License granted by The London Borough of Camden for a House in Multiple Occupation (License No.000450): Issue date 01/05/2012 and expiring on 30/04/2017.
- Letter relating to transitional arrangement concerning certain Registered HMO's, from Camden's Environmental Health Team, dated 04/12/2006
- Certificate of Registration – London Borough of Camden (Registration of Houses in Multiple Occupation) Control Scheme 1999 (License No.000450): Issue date 02/03/2006 and expiring on 02/03/2011.
- Notice of the Revocation of The London Borough of Camden (Registration of Houses in Multiple Occupation) Notification Scheme 1994, dated 03/03/1999.
- Notice of the Revocation of the Management Order on 07/12/1979

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Ground, first, second and third floor plans showing internal arrangement

Council's Evidence

Planning History for No.7A (lower ground floor flat) Lupton Street:

- PE9900741 – PP Granted (09/11/1999) for the construction of a single storey rear extension at lower ground floor level as extension to existing flat.
- PE9701008 - Certificate of Lawful Existing Use Granted (10/02/1998) for a one bed self-contained basement flat.

Planning History for No.7 Lupton Street:

- 9400606 - PP Granted (29/07/1994) for alterations to the rear roof by installation of dormer windows.
- 9401269 - PP Refusal (23/09/1994) for the conversion of house in multiple occupation to provide one 3-bedroom and one 2-bedroom maisonette on upper ground, first to third floors plus balcony and rear access steps:

Reason for Refusal: The proposed development involves the loss of existing residential accommodation of a type which the Council considers should be retained in this area.

Site visit undertaken on the 09/11/2012:

The officer was satisfied that the ground, first, second and third floor levels comprised 9 occupied non-self contained units with shared washing and cooking facilities at ground (bathroom), first (bathroom) and second (bathroom and kitchen) floor levels.

Council Tax

The officer was satisfied that regular Council Tax payments have been paid for the ground, first, second and third floor levels as an HMO for 10 years and more.

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 ground, first, second and third floor levels have existed as an HMO (Sui Generis) for a period of more than 10 years as required under the Act. Furthermore, the Council's evidence, with particular regard to the buildings planning history, does not contradict or undermine the applicant's version of events.

Recommendation: Grant Certificate of Lawful Existing Use

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