

LDC Report	25/06/2012
Officer	Application Number
Fergus Freaney	1) 2012/2308/P 2) 2012/2309/P
Application Address	Recommendation
72 Mill Lane London NW6 1NL	1) Approve 2) Approve
1st Signature	2nd Signature (if refusal)
Proposal	
1) A rear ground floor extension in connection with residential use (Class C3). 2) The use of the rear lower ground, ground and first floor as 1 x2 bed residential maisonette (Class C3) with roof terrace to the first floor rear elevation level.	
Assessment	
<p>The application site is located on the south side of Mill Lane, it comprises a mid terrace 3 storey property with lower ground floor to the rear. The site is not within a conservation area and is not a listed building.</p> <p>Two applications for a Certificate of Lawful Development have been submitted, 1) is to establish whether a rear infill lean-to style extension is lawful, and 2) to establish whether to use at rear lower ground, ground and first floors is lawful.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing infill extension and residential use has existed for a period of 4 or more years.</p>	
Applicant's Evidence	
<p>The applicant has submitted the following information in support of the applications:</p> <p>1) 2012/2308/P (Infill extension)</p> <ul style="list-style-type: none"> - Cover letter dated 30th April 2012. - Site location plan. - Plans showing the existing situation. - Statutory Declaration signed by Caroline Oulton (Owner), dated 27th March 2012, confirming that the alterations at rear lower ground and ground floors, and the terrace at first floor level have been in place for over 10 years. - Statutory Declaration signed by Falgun Rasikbahi Patel, dated 27th March 2012 confirming that the alterations at rear lower ground and ground floors, and the terrace at first floor level took place approximately 10 years ago. 	

- Statutory Declaration signed by Tatiana Kennedy, dated 27th March 2012 confirming that the alterations at rear lower ground and ground floors, and the terrace at first floor level have been in place for over 4 years.
- Various photos from within the property.

2) 2012/2309/P (residential use of rear lower ground, ground and first floors)

- Cover letter dated 30th April 2012
- Site location plan
- Plans showing the existing situation.
- Statutory Declaration signed by Caroline Oulton (Owner), dated 27th March 2012, confirming that the use at lower ground and ground floors has been residential for over 10 years.
- Statutory Declaration signed by Falgun Rasikbahi Patel, dated 27th March 2012 confirming that the residential use at rear lower ground and ground floors, has existing for more approximately 10 years.
- Statutory Declaration signed by Tatiana Kennedy, dated 27th March 2012 confirming that the use of rear lower ground and ground floors, has been residential for over 4 years.
- Various photos from within the property.
- Bank statements dated 21st August to 20th September 2004; 21st June to 20th July 2008; 21st February to 20th March 2011; 21st February to 20th March 2012.
- British Gas Bills dated 19th January 2011 and 21st April 2011
- EDF Energy Bill dated 29th May 2009

Council's Evidence

Planning History

PW9902526 - Change of use and works of conversion from retail (A1 Use Class) to residential (C3 Use Class) to form a single dwellinghouse. *Refused 17/02/2000*

Enforcement History

EN000302 - Change of use from A1 to residential. *No breach found 26/04/2000*

Council tax have confirmed that the liability for Council Tax at the first and second floor flat started on 1st April 1996 (but may have been residential before this period). It has been in payment continuously since then. Council tax records do not include details of the use at Ground and Lower Ground levels of the property. However, the lower ground and ground floors are part of the same individual residential unit and there are no other council tax records for other residential units in this property.

A site visit to the property was undertaken on the 22nd June 2012. The officer was satisfied that the unit had been occupied for residential use for some time.

Aerial photos taken in 2007 indicate that the infill extension and first floor terrace were in place at this time and have therefore existed for a period of more than 4 years.

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: 1) Approve 2012/2308/P; 2) Approve 2012/2309/P

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