

LDC Report		28/05/2012	
Officer		Application Number	
Angela Ryan		2012/2065/P	
Application Address		Recommendation	
175 Highgate Road London NW5 1PN		Approve	
1st Signature		2nd Signature (if refusal)	
Proposal			
Continued use of the ground floor for a music therapy centre (Class D1).			
Assessment			
<p>The application site is located on the east side of Highgate Road and comprises a two-storey plus basement detached building. The basement is currently vacant, whilst the first floor is used a caretakers flat.</p> <p>The application relates to the ground floor of the premises and its continued use as a music therapy centre.</p> <p>The building is grade II listed and is located in the Dartmouth Park Conservation Area.</p> <p>The application seeks to demonstrate that the ground floor of the premises has existed as a music therapy centre 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 music therapy centre 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"> Letter from the Council confirming that flats B & C on the ground floor of the application site has been previously deleted from the Council Tax records and the said premises has never been listed for Council Tax payments since Council Tax started in 1991 (see email dated 30/04/12) Extract from Land Registry Title Deed identifying Nordoff Robbins (name of school) as being the owner of 175 Highgate Road since 1991 Letter from City University London confirming that the ground floor of the premises has 			

not been used for residential purposes since 1991.

- Initial visit report by the Arts Therapist Board dated 03/10/2000, referring to impressive offices and common room catering facilities
- Maintenance inspection notes dated 21st and 22nd February 2001, referring to the premises as Mary Bradford House and recommending repairs
- City of University report from Revalidation Panel dated 12/06/03, referring to the adjoining building (the application site) forming a part of the student therapist department and containing a research room, lecture room and student therapist common room.
- Extract from Nordoff Robin's Budget 2003, confirming that Council Tax has only been paid for the caretakers flat which was located at basement level and rent income from the Director's flat located on the first floor

The applicant has also submitted the following plans:

- A site location plan outlining the application site (Ref: LPD55617-01)
- Existing basement floor plan (Ref: LPD55617-02)
- Existing ground floor plan (Ref: LPD55617-03)
- Existing first floor plan (Ref: LPD55617-04 Rev A)

Council's Evidence

There is no relevant planning history or enforcement action on the subject site. Records show that in 1990 an application was submitted for submission of details of sound insulation pursuant to condition (01) of the planning permission dated 28.04.89 for change of use to a Music Therapy Centre with alterations to the external appearance and for the erection on site of a L.E.B. sub-station generator. However, this related to the rear of 175 Highgate Road (R/O 1-10 Lissenden Mansions, Lissenden Gardens and not the front of the application site.

Council tax has confirmed that the ground floor of the property has never been registered for Council Tax Purposes since Council Tax began on 1 April 1993.

A site visit to the property was undertaken on the 14th March 2012. The officer was satisfied that the unit had been occupied as a music centre for some time. There was a music room situated on the right hand side, and a common room, bathroom, kitchen and office located on the left hand side of the property at ground floor level.

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 floor has been used for Class D1 purposes 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

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