

LDC Report		03/02/2012
Officer		Application Number
Fergus Freeney		2011/6052/P
Application Address		Drawing Numbers
45 GASCONY AVENUE LONDON NW6 4NB		
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Use of building as three self-contained residential flats (1 x 1-bed, 1 x 3-bed, 1 x 4- bed).		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>The property is located on the west side of Gascony Avenue. The applicant seeks to demonstrate that the property is subdivided into three self contained flats.</p> <p><u>Applicants evidence</u></p> <ul style="list-style-type: none"> - Letter from British Gas dated 26/11/2009 stating that meters have installed at Flat A since 21st June 2002; Flat B since 11th January 1984, and; Flat C since 7th March 2002. - Completion Certificate from Camden's Building Control Team dated 9/09/2009 stating that refurbishment works on 3 self contained flats have been completed. - A letter from Joseph Thaliyan Solicitors dated 17th November 2009 outlining communications with EDF Energy who confirmed that electricity meters have been installed at Flat A since 3rd April 1996; Flat B since 1st April 1996, and; Flat C since 3rd April 1996. - Confirmation letter from EDF Energy dated 19/11/2009 stating that energy had been supplied at 3 self contained flats from 1st April 1996. - Council Tax records showing that the properties have been self contained since at least 22/12/2009 <p>The applicant has also submitted the following evidence:</p> <ul style="list-style-type: none"> - Site location plan. - Floorplans. <p>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</p>		

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. It has been confirmed with the Council Tax department that the flats have only been formally recognised as self contained units since 9th August 2009 which is less than 4 years ago, however the supporting information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the three self contained flats have existed in use for a period of more than 4 years as required under the Act.

Recommendation: Issue Certificate of Lawful Development

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