

LDC Report		09/01/2012	
Officer		Application Number	
David Glasgow		2011/5579/P	
Application Address		Recommendation	
162 Camden Road London NW1 9HJ		Grant Certificate of Lawfulness	
1st Signature		2nd Signature (if refusal)	
Proposal			
Continued use of 1x2 bedroom lower ground (front) and ground floor maisonette and 1x1 bedroom lower ground (garden) floor (rear) flat as self-contained residential units (Class C3).			
Assessment			
<p>The application site comprises a 2-storey building plus attic and basement floorspace. The building is located on the east side of Camden Road in close proximity to Camden Road overground station. The area has a mix of residential and commercial uses. The application relates solely to the lower ground and ground floor levels of the building. The building is not listed but lies in the Camden Square Conservation Area.</p> <p>The application seeks to demonstrate that a 1x2 bedroom maisonette (lower ground floor front and ground floor) and 1x1 bedroom flat (lower ground floor rear) have existed on the lower ground and ground floors for a period of 4 years or more such that the continued use would not require planning permission. 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>Planning History</p> <p>Planning permission (2010/2111/P) was granted in 15/06/10 for a 'Change of use and works of conversion from office use (Class B1) on second floor to a two bedroom self-contained flat (Class C3)'.</p> <p>Certificate of lawfulness (2011/1142/P) was granted on 04/05/2011 for 'Continued use of a 1 bedroom first floor flat as a residential dwelling (Class C3)'.</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"> A sworn affidavit dated 18th October 2011 from the son of the former owner of the property stating that the premises has been used for residential purposes comprising a s/c flat at lower ground (garden) floor rear level and one maisonette at lower ground floor front and ground floor level for a constant period exceeding 10 years; 			

The applicant has also submitted the following plans:

- A site location plan
- Floor plans, front and rear elevations, showing both the flat and maisonette as being self contained.
- Email correspondence with LB Camden Council tax staff and Council tax records for 2011/12 (Council tax record 2011/12 for Maisonette Basement front and ground, 162 Camden Road dated 28/06/2011; Council tax record 2011/12 for Flat Garden Floor Rear for 162 Camden Road dated 21/07/2011; Email from Kieran Waller dated 12/10/2011);
- Correspondence from LB Camden Environmental Health officer and schedule.

Council's Evidence

There is no relevant planning history or enforcement action on the subject site.

Council tax have confirmed that the liability for Council Tax for both 'Garden flat LGND Rear' and MAIS LGND and GND floors' started on 1/07/2007 and has been in payment continuously since then.

A site visit to the property was undertaken and the officer was satisfied that the units were self contained and had been occupied for residential use for some time.

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

Issue Certificate of Lawfulness.

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