

LDC Report		16/01/2012
Officer		Application Number
Ben Le Mare		2011/5705/P
Application Address		Drawing Numbers
21 Delancey Street London NW1 7NP		See draft decision notice
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Continued use as a single dwelling house (Class C3).		
Recommendation: Grant lawful development certificate		
Assessment		
<p>The Site</p> <p>This property is located within the Camden Square Conservation Area and forms part of a Grade II listed terrace of 6 houses built in the mid-19th Century with yellow stock brick and rusticated stucco ground floors. The building has a two storey rear extension which was built following planning permission being granted in 1980 (see below). The property has been stripped out and currently remains unoccupied.</p> <p>History</p> <p>Planning history records show that conditional planning consent was granted on 17/12/1970 (ref: 9487) for the conversion of the property to provide four self-contained flats with the erection of a three storey rear extension. The three storey rear extension was not built and there is no evidence to suggest that at this time the property was converted into four self-contained flats.</p> <p>Planning permission was granted on 10/11/1980 (ref: HB2417) for the erection of a two storey rear extension. A site visit on the property has confirmed that the consent was implemented.</p> <p>Planning and listed building consent was sought in June 2011 for additions and alterations including new roof extension with roof terrace to rear, garden level rear extension; alterations to rear windows at upper ground level; and internal alterations to existing four residential flats (Class C3) (ref: 2011/2726/P & 2011/2728/L). Both applications were withdrawn on 28 July 2011.</p> <p>Evidence submitted by the applicant</p> <ul style="list-style-type: none"> Electricity Bills (26/09/2011 & 28/10/2011); 		

- Gas Bill (30/07/2011);
- Thames Water Bill (07/07/2011 and 14/10/2011);
- Council Tax Evaluation List (31/10/2011);
- Council Tax Bill (21/01/2010);
- Land Registry (13/04/2010 and 19/07/2011);

Information held by LB Camden

Council tax records show that the property has been registered as one dwelling since 1 April 1996; no changes have since been recorded.

Letter from Camden Council Tax Officer stating that the property has never been officially labelled as a House of Multiple Occupation. This has been confirmed by the Council's Public Sector Housing Team.

Assessment

In this instance a lawful development certificate can only be issued if it has become immune from the Council taking enforcement action. A development of this nature is immune from enforcement action, if it can be established that its use has been for a continuous four year period prior to the submission of the application.

The onus of proof in a lawful development certificate application lies with the applicant. The relevant test of the evidence on such matters is 'the balance of probability'. The local planning authority are advised that if they have no evidence of their own, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous. 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.

Council tax records supplied by the Council's Council tax department show that tax has been paid on the property which has been registered a single family house since 1996.

The utility bills provided by the applicant all show the property as a single family dwelling. However the evidence does not date back further than 4 years (the earliest being 2010) and fail demonstrate a continuous use of the property as a single dwelling for this period.

A site visit at the property on 6 December 2011 identified that the property was not subdivided (no separate kitchens and bathrooms) and there are existing utility metres for one dwelling.

The land registry of title dated 13/04/2010 shows the property as a single family dwelling and Andreas Yeorghaki as the title absolute (dated 09/02/1970).

Whilst the description for the previous applications (2011/2726/P & 2011/2728/L) seeks to make alterations to 4 self-contained flats, there is no evidence to suggest that the property had this use within the last 4 years.

Based on the above considerations the Council does not have evidence of its own which contradicts the applicant's version of events.

Conclusion:

It is considered that the evidence provided has established that on the balance of probabilities

No. 21 Delancey Street has been used as a single family house for the last four years, approval of the application is recommended.

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