

<b>LDC Report</b>		16/03/2011
<b>Officer</b>		<b>Application Number</b>
Fergus Freeney		2011/0233/P
<b>Application Address</b>		<b>Drawing Numbers</b>
Flat 2a 1 - 5 Cambridge Terrace London NW1 4JL		See draft decision notice.
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>Authorised Officer Signature</b>
<b>Proposal</b>		
Use as 1-bedroom self-contained flat (Class C3).		
<b>Recommendation: Refer to Draft Decision Notice</b>		
<b>Assessment</b>		
<p><b>Site description:</b></p> <p>The application site comprises a five storey mid-terraced property. The building is Grade I Listed and is located within the Regent's Park Conservation Area.</p> <p><b>Proposal:</b></p> <p>The application seeks to demonstrate the lawfulness of the existing use of the basement as a self contained one bedroom flat.</p> <p><b>Discussion:</b></p> <p>In terms of assessment 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 applicant is not required to discharge the stricter, criminal burden of proof, namely 'beyond all reasonable doubt'. The local planning authority is advised that if it has no evidence of its 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 such an application.</p> <p><b>Evidence submitted:</b></p> <p>The applicant has submitted the following documentation as part of their application:</p>		

- A site location plan outlining the boundary of the site
- A basement plan showing the layout of the flat.
- Letter dated 10<sup>th</sup> January 2010 confirming that the property has been banded for council tax purposes since 1<sup>st</sup> April 1993
- Sworn affidavit by Mr Bernard Richard Lee Spears, employed as the property manager since 1986 confirming that, other than the combination of flats 1 and 1A, the layout of the building has remained the same since at least 1999.

The submitted plan accords with the layout of the flat as observed on site on 1<sup>st</sup> March 2011 which confirmed that the basement is currently laid out as a self-contained flat.

It has been confirmed by the Council's Tax and Business Rates department that Council Tax has been paid on the property since 1<sup>st</sup> April 1993.

Based on the evidence submitted it is considered that, on the balance of probability, the basement has been in use as a self contained dwelling for a period of at least 4 years prior to the application being submitted.

**Recommendation:** Issue Lawful Development Certificate.

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