

LDC Report		24/05/2010
Officer		Application Number
Fergus Freeney		2010/1741/P
Application Address		Drawing Numbers
Flat 1st Floor 19 Shirlock Road London NW3 2HR		SR/0410/01; SR/0410/02
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Retention of use as a self contained residential flat (Class C3)		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>Site description:</p> <p>The application site comprises a three storey mid-terraced property, with the roofspace converted to residential use, located on the western side of Shirlock Road. The building is not listed, but is located within the Mansfield Conservation Area</p> <p>Planning history:</p> <p>There is no relevant planning history</p> <p>Proposal:</p> <p>The applicant seeks to demonstrate the lawfulness of existing use of the first floor flat.</p> <p>Assessment:</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.</p>		

Evidence submitted:

The applicant has submitted the following documentation as part of their application:

- Site location plan outlining the boundary of the site.
- An existing and proposed floorplan of the first floor flat.

The submitted plan accords with the layout of the flat as observed on site. This plan identifies the land to which the application relates. In conjunction with the site visit made by the planning officer it can be confirmed that the first floor is currently laid out as a flat.

The following evidence was submitted to support the application:

- letter dated 16th April 2010 from the Camden Council Finance Department confirming that the first floor flat appears on the Council Tax records database a unique and separate dwelling since 1st April 1996
- Sworn affidavit in which Mr Gareth Wildey (the applicant) confirms that 19 Sherlock Road comprises three separate flats across three floors, and that the first floor flat has been let out on a separate tenancy from 16th April 1979

The information held by Camden's Finance Department confirms that the first floor has been in use as a dwelling for at least fourteen years prior to the application being submitted. Whilst the affidavit submitted by the applicant confirms that the property has been used as separate dwelling for a significantly longer period.

After liaising with Camden's Finance Department it was confirmed that all three flats within the property (1 unit on Ground floor, 1 unit on first floor and 1 unit on second & third floor) are recognised as separate and unique units from 1st April 1996. However, this certificate of lawfulness is only sought for the use of the first floor flat.

It is considered, on the basis of the evidence submitted with the application along with the Council Tax records held by the Council, that on the balance of probability the lawful use of the first floor is as a self contained flat.

Recommendation: Issue certificate of lawfulness for existing use of the first floor flat.

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