

LDC Report		12/05/2010
Officer		Application Number
Jenny Fisher		2010/1265/P
Application Address		Drawing Numbers
143 Adelaide Road London NW3 3QE		Refer to decision letter
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Use of the second floor as a 5 bedroom self contained flat (Class C3)		
Recommendation: Refuse the issue of a Lawful Development Certificate		
Assessment		
<p>Site: A public house on a corner site at the junction of Adelaide Road and Elsworthy Rise. It comprises basement (storage space and cold room), ground floor (pub), first floor adjoining function rooms W.C.s and office, second floor five bedroom residential accommodation.</p> <p>Evidence submitted by the applicant: Marketing information that describes the use of each floor and understands premises benefit from Class A4 (drinking establishment) use.</p> <p>A covering letter dated 10/03/2010. The letter describes residential accommodation of the 2nd floor as self-contained. A stair case from the first floor to second is only used by the occupants of the residential unit. Pub has been vacant for 18 months but the flat is occupied.</p> <p>In the past the pub has been known as the "Eton Hotel" therefore the applicant assumes that the previous use of the property was hotel (Class C1) until August 1954 when it became a combination of hotel on upper floors and pub on the ground floor.</p> <p>In 1993 advertisement consent for signs, premises known as "The Viceroy Public House". Assume that this is when the hotel use was abandoned and the site became a public house only.</p> <p>Council tax paid for financial year 2009/2010 by Urban Leisure (Primrose Hill) Ltd. (band E).</p> <p>Information held by L.B.Camden: 07/06/1950 (H8/11/1/679) a plan associated with this application for alterations to the elevations to the first floor level at the "Eton Hotel", No. 143, Adelaide Road, Hampstead. The plan is labelled "The Eton Hotel P.H."</p> <p>Historic plan associated with a 1984 application (36877) shows four entrances into the premises. One from Elsworthy Rise and one from Adelaide Road lead directly into the bar area. A second from Adelaide Road also leads into the bar area and stairs to upper floors, (the cellar appears to be accessed from the ground floor behind what was then a servery). On the first floor the stairs reach a landing; a door opens from the function room onto the landing providing access to toilets at this level. Stairs then continue up to</p>		

the second floor. Access to the rear is via the pub garden room and steps that lead to a beer garden i.e. not from the public highway.

Council tax officers confirm that both council tax and business rates are charged when residential accommodation is ancillary to the use of the property i.e. public house (Class A4) in this case.

Assessment:

Marketing information submitted includes 5 bedroom accommodation but it is not described as self-contained; in fact details under the heading "Planning" refer to the understanding that the premises benefits from Class A4 use.

The applicant has not provided evidence to support the assumption that the property known as the "Eton Hotel" was in C1 (hotel) use. Public houses can be referred to as hotels but they are in fact within A4 (drinking establishment) use rather than C1 (hotel). Information held by the Council dating back to 1950 includes drawings labelled "The Eton Hotel P.H." This indicates that the property although named The Eton Hotel, it was in fact a public house. The second floor would have provided residential accommodation for staff. Council records do not include information relating to a hotel at 143 Adelaide Road.

Council tax is paid as well as business rates even if the residential accommodation is ancillary to the business use of the property. Therefore the fact that there is a Council tax record for residential accommodation here does not indicate that it is self-contained.

The applicant was given the opportunity to provide plans to substantiate the claim that residential accommodation has separate access from the rear of the building. An additional plan has been submitted but it matches the plan that was available to the Council (1984 application) that shows rear access leads from a beer garden to a conservatory. (N.B. the conservatory is listed in marketing details submitted by the applicant, therefore is still in existence).

Conclusion:

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. It is considered that insufficient evidence has been provided to substantiate the claim that second floor residential accommodation has been self-contained for more than 4 years continuously up to the present. Information held by the Council points towards an ancillary residential use, and that No. 143 Adelaide Road is a single planning unit within Class A4 (drinking establishment).

Recommend refuse issue of a Certificate of Lawfulness for an existing use.

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