

LDC Report		04/01/2010
Officer		Application Number
Sharon O Connell		2009/5441/P
Application Address		Drawing Numbers
251 Eversholt Street, London NW1 1BA		See decision notice
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Certificate of lawfulness for existing use of first floor flat as a self contained Class C3 residential unit.		
Recommendation: Refer to Draft Decision Notice		
Assessment		
History		
<p>8500911 Certificate of Established Use for the use of the 2nd and 3rd floors as 2 self-contained flats. Granted 24/07/1985</p> <p>Assessment:</p> <p>The Certificate of Lawfulness has been submitted to establish the lawful use of the use of first floor flat as a self contained Class C3 residential unit. The following information was submitted in support of the application:</p> <ul style="list-style-type: none"> • Site Location Plan; • A Statutory declaration made by Kenneth Edward Walker which states the following: <p>“The freehold property number 251 Eversholt Street, London NW1 1BA was purchased as a long term investment by J & J Osborne (Anglia) Limited on 7th October 1985. I attach a copy of the Deed of Transfer marked KW1. At that time and at the present day, I was and am a director of the company and in the intervening 24 years I have been fully familiar with the property.</p> <p>At the time of the purchase, the first floor flat was occupied by Mrs. Domenica Lanzarotti, the mother-in-law of the vendor of the property. This was by virtue of a Lease dated 14th June 1973, a copy of which is attached and marked KW2. The flat was not self-contained as her bathroom was accessed off the communal hallway. I was told that this part of the premises had been used as her flat whilst the lower portions were a restaurant.</p> <p>Some time before the purchase by J & J Osborne (Anglia) Limited, the restaurant business was</p>		

closed and the units in the property were all used as flats. This remains the situation today with the sole exception that application was made, and granted, for a change of use of the ground floor unit to shop premises.

Mrs Domenica Lanzarotti continued in occupation of the first floor flat during the summer months but regularly returned to her native Italy during the British winter to seek more warmth. As she became older, and especially from the mid 1990s onwards her time spent in Italy increased but the unit always remained as her flat with her belongings until she eventually relinquished the tenancy.

The first floor flat was in a very poor state at that time but Mrs. Lanzarotti always resisted approaches to refurbish and modernise the flat.

Out of respect for the elderly lady, her wishes were respected, even though she was rarely in occupation and there was a lengthy period following Mrs Lanzarotti's last occupation of the flat before it was made self contained and brought into a condition where a new tenant could be sought.

The first floor flat was subsequently fully refurbished and made a wholly self contained unit between the period 20 October 2003 and 01 March 2004. As evidence I attach copies of 2 letters (KW3 and KW4) from Moss Kaye Pembertons, the agents managing the refurbishment on behalf of J & J Osborne (Anglia) bearing those dates and being, respectively, a copy of the letter advising the successful contractor that his tender had been accepted and a letter to myself informing me that all of the works had been completed and that the flat was ready for letting.

The layout of the self contained first floor flat is as shown on drawing number 032.01 by Rodger Davis MCIAT ACIOB previously produced to London Borough of Camden and this layout has been undisturbed since completion of the refurbishment and self containment of the flat in the early months of 2004, referred to in paragraph 7, and the present day.

The refurbished self contained flat was let to Ms. Nicole Keeding on an assured shorthold tenancy with effect from 15th May 2004, initially for a term of 12 months, but which was subsequently renewed annually until she vacated the flat on 04 July 2009. As evidence of the negotiation of the letting to Ms. Keeding I attach a copy letter (KW5) dated 12 May 2004 from Hotblack Desiato, the agents.

Throughout the period of ownership, and indeed since 14 June 1973, the flat has always only been used and occupied as a residential flat, non self-contained to 01 March 2004 and self contained since that time, and that use has only been broken in the periods in which it was unoccupied. There has never been an alternative use.

When the 2nd floor and 3rd floor flats were sold on a long lease I understand that there was a successful application for a certificate of lawful established use. It had been erroneously believed at that time, that a similar application had also been made and granted for the first floor flat.

I have previously produced a Council Tax Bill Reference number 72495258 issued by London Borough of Camden Council on 9 January 1997 showing the amount of Council Tax due in respect of the first floor flat from 21 July 1995 to 31 March 1996 and the sums collected and credited by the Council as well as the amount remaining for that period."

- A copy of the deed of transfer dated 7/10/1985;
- A copy of the lease dated 14th June 1973;

- A letter from Moss Kaye Pembertons accepting a tender submissions for works to be carried out to 251 Eversholt Street;
- A letter from Moss Kaye Pembertons to Mr Walker stating that “The first floor flat is fully decorated, carpeted and refurbished for your particular letting purpose;
- A letter from Hotblack Desiato confirming that Ms Nicole Keedling withed to rent the property on an assured shorthold tenancy for a period of 12 months from 15th May 2004.
- Drawing 032.01 of the first floor flat. This shows a self contained studio flat with a kitchen and bathroom and bedsitting room all behind an entrance door. A site visit carried out on 3rd December 2009 demonstrated that the current layout is as shown on drawing 032.01.

To prove the lawful use of the first floor is as a self contained flat, the evidence submitted with the applicant should prove that the flat have been laid out as shown on drawing 032.01 for a period of four years prior to the date of the application.

The statutory declaration is made by someone who has had knowledge of the running and layout of the property for the relevant 4 year period.

The evidence submitted as part of the statutory declaration as detailed above, along with the site visit to confirm the layout that on the balance of probability the first floor flat shown on the drawing 032.01 has been in place for a period of more than four years and are therefore considered lawful.

Recommendation:

Grant Certificate of Lawfulness for existing use.

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