

LDC Report		20/07/2009
Officer		Application Number
Tania Skelli-Yaoz		2009/2537/P
Application Address		Drawing Numbers
113 King Henry's Road London NW3 3QX		See decision notice
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Certificate of lawfulness for existing use of the lower ground as two self-contained studio flats.		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>A certificate of lawfulness is sought to establish the existing use of the lower ground floor of the above property as used for 2 x self-contained studios.</p> <p>This requires evidence to demonstrate that the balance of probability that the lower ground floor of the property was used as a two self contained flats for a continuous period of at least 4 years preceding the date of the LDC application; the key dates for this are 25th May 2005 to 25th May 2009.</p> <p><u>History:</u></p> <p>9401100 Application for Certificate of Lawfulness for an existing use as a self-contained flat on ground floor. Refused</p> <p>9400231 Change of use of lower ground, ground and first floors from house in multiple occupation to 3 self-contained flats and rear extension at lower ground floor. Application withdrawn</p> <p>PE9800911 Use of ground floor of premises as a self-contained flat. Granted</p> <p>2009/2606/P Change of use of two studio flats to 1 x 3-bedroom flat and erection of single-storey rear extension and outbuilding. Decision due by 28/07/2009</p> <p>2008/4056/P Certificate of lawfulness for existing use of the basement and the associated rear garden to be used as two self-contained studio flats. Withdrawn due to insufficient evidence being submitted.</p>		

The applicants have submitted the following evidence

- 1) A Statutory Declaration (SD) made by the managing agent of the owner (since October 2004). Within his statutory declaration he states the following:
 - Basement Flat A had been occupied by Ms K Bergman from 20th June 1995. On 7th August 2007 a long lease was granted for the flat and Ms Bergman was in occupation at that time.
 - The rear basement flat B was occupied by a rent act protected tenant (now assured tenancy) who left the flat to go to an old peoples home in late 2004. He believes the tenant moved into the property a considered number of years ago.
 - Since the protected tenant left the property in late 2004 it has been let out on a series of assured shorthold tenancy agreements.
 - Flat B was vacant when Mr Schleider granted a long lease of flat B on 7th August 2007 to Warehouse Investments limited.
- 2) Land Registry ownership details for 113 King Henry's Rd listing separate 5 flats. This shows that 125 year leases were granted for the two lower ground floor flats from 25/03/1994.
- 3) The Council Tax valuation list shows that Council tax was effective for Flat A from 20/02/1994 and for Flat B from 20/02/1994.
- 4) Council Tax details listing Flat B, 113 King Henry's Road over 2008 and 2009
- 5) Camden Electoral Service Office letter dated January 2008 posted to Flat B, 113 King Henry's Rd – stating there was no registered electors.
- 6) British Gas Bills dated 16 February 2008 and 21 April 2008 posted to 113A King Henry's Road
- 7) EDF Energy Bill dated 16th January 2008 posted to Flat B, 113 King Henry's Road

Evidence held by the Council:

- LBC Council Tax Service confirm on 14/7/09 that Flats A and B have been listed separately since 1996 and continuously until today.
- LBC Environmental Health Residential Team has no records to demonstrate that the site is registered as an HMO.

A site visit revealed that the lower ground floor is accessed via the side of the house and gives access to two self contained flats at the lower ground floor; the rear flat with direct access to the garden. Five separate weathered gas meters are present to the side wall of the house. Three additional flats seem to be accessed from the main front entrance at upper ground floor.

The evidence submitted demonstrates that the two flats at the lower level have been considered to be separate units since 20/02/1994 (VOA office). Both properties were then given long leases from 25/03/1994. The affidavit submitted by the managing agent demonstrates that both flats were occupied for a significant period of time and in particular for a period of more than 4 years. It is considered on the basis of the evidence submitted with the application along with the Council Tax and Environmental Health records held by the Council demonstrate that on the balance of probability the lawful use of the lower ground floor level is as two self contained flats.

Accordingly, it is recommended that a certificate of lawfulness for existing use is granted.

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