

PLANNING STATEMENT

APPLICATION FOR A CERTIFICATE OF LAWFUL USE IN RESPECT OF THE
OCCUPATION OF NO. 2 BRIARDALE GARDENS, CAMDEN, LONDON,
AS A SINGLE DWELLINGHOUSE
FOR PAMELA M. WOOD

SEPTEMBER 2014

C13/032

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1. INTRODUCTION

This Planning Statement accompanies an application for a Certificate of Lawful Use in respect of the occupation of No.2 Briardale Gardens as a single dwellinghouse.

The application demonstrates that the property, which was formerly occupied as 3 three flats, has been occupied as a single dwellinghouse for a continuous period since April 2007.

The supporting evidence is contained within appendices 1 to 10 of this Statement.

In addition to this Planning Statement the application is supported by the following plans:

- floor plans of the property when it was occupied as three flats, including a block plan (Drawing No. 001 Revision A); and
- existing floor plans that illustrate the current layout of the dwelling, including a site location plan (Drawing No. 002 Revision A).

2. THE LEGISLATIVE FRAMEWORK

Section 191 of the 1990 Town and Country Planning Act (the 1990 Act), as amended, makes the provision for the submission of applications for certificates of lawfulness of existing use or development (CLEUD).

Section 191(2) of the 1990 Act identifies that uses and operations are “lawful” if no enforcement action may be taken against them and they are not in contravention of any enforcement notice which is in force.

Section 171B of 1990 Act identifies timeframes after which enforcement action cannot be taken.

In respect of dwellinghouses s.171B(2) states:

“where there has been a breach of planning control consisting in the change of use of any building to a use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach”.

Circular 10/97, titled “Enforcing Planning Control: legislative provisions and procedural requirements”, which provided specific advice on the issues of lawfulness, has been revoked following the publication of the web based National Planning Practice Guidance (NPPG).

The NPPG provides specific advice on Lawful Development Certificates. The NPPG states that:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, 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 to justify the grant of a certificate on the balance of probability.”

3. BACKGROUND INFORMATION

No.2 Briardale Gardens formerly comprised three flats, which were located on the ground, first and second floor, respectively.

The Authority's Council Tax records identified the former flats as Flat Ground Floor, Flat 1st Floor and Flat 2nd Floor.

In 1982 the applicant purchased the second floor flat.

In 1992 the applicant purchased the first floor flat, whilst retaining ownership of the second floor flat.

Following the purchase of the first floor flat the applicant occupied the first and the second floors of 2 Briardale Gardens as a single planning unit. It was during this period that the applicant removed the entrance to the second floor flat, as it was superfluous to the occupation of the upper two floors as a single residential unit. This change can be seen on the existing floor plans (Drawing No. 002 Revision A). The previously common areas shared by the first and second floor flats were now used exclusively by the applicant as a single dwelling.

On the 30th January 2007 the applicant purchased the ground floor flat, whilst retaining ownership of the upper two floors.

In April 2007, following decorating and furnishing of the ground floor, the ground floor flat was incorporated into the former first and second floor flats, which were being occupied by the applicant as a single residence.

From April 2007 onwards the former flats within No.2 Briardale Gardens were occupied by the applicant as a single dwellinghouse. The occupation of No.2 Briardale Gardens as a single dwellinghouse has continued uninterrupted since that date.

4. SUPPORTING EVIDENCE

It is submitted that No.2 Briardale Gardens has been occupied, continuously, as a single dwellinghouse from April 2007, which exceeds the 4 year period after which residential use is immune from enforcement action under s.171B(2) of the 1990 Act.

The existing floor plans (Drawing No. 002 Revision A) clearly illustrate that the property has the facilities required for day-to-day private domestic existence.

The evidence, which is submitted in support of the applicant's case, is contained within the appendices of this Statement.

Table 1, below, lists the evidence that has been submitted and its location within the appendices.

Table 1: Summary of Evidence

Appendices	Evidence
1	Statutory declaration signed by Pamela M. Wood of 2 Briardale Gardens, Camden, London (Applicant).
2	Statutory declaration signed by Thomas H. Keith of 4 Briardale Gardens, Camden, London (Neighbour).
3	Statutory declaration signed by Paul Vockins of 9 Briardale Gardens, Camden, London (Neighbour).
4	Statutory declaration signed by Andrew J. Carnegie of 59 Walton Street, London (Applicant's nephew).
5	A copy of correspondence from Thames Water to Pamela Wood dated 14 th February 2007.
6	A copy of correspondence from Pamela Wood to the Valuation Office, London Central Group, dated 30 th April 2008.
7	A copy of a letter from the Valuation Officer, London Central Group, dated 7 th May 2008, in response to Pamela Wood's letter dated 30 th April 2008.
8	A copy of correspondence from Pamela Wood to Camden Council's Council Tax & Business Rates Department dated 25 th November 2009.
9	A copy of correspondence from Pamela Wood to Camden Council's Council Tax & Business Rates Department dated 20 th August 2010.
10	A copy of correspondence from Pamela Wood to Camden Council's Council Tax & Business Rates Department dated 31 st January 2014.

Appendices 1-4 comprise Statutory Declarations from the applicant, two neighbouring residents and a family member, respectively, which verify that 2 Briardale Gardens has been occupied as a single dwelling house for a period exceeding 4 years. These Declarations form the main evidence in support of the applicant's case.

The information contained in Appendices 5-10 contain information that corroborates the facts contained within the Statutory Declarations.

On the 14th February 2007, following the purchase of the ground floor flat the applicant telephoned Thames Water to explain that the building was being occupied as a single unit. The written response from Thames Water, which is contained in Appendix 5, confirms this. The letter from Thames Water explains their understanding of this situation, stating that ***“the three properties at the above address have now been amalgamated to one property, as of the 31 January 2007”***.

It will be noted that the 31st January 2007 corresponds with the date that the applicant purchased the property. The correspondence between Thames Water and the applicant also correlates with the time that the ground floor flat was decorated and furnished, as stated in the applicant's Statutory Declaration.

Electricity and gas supplies have not been combined, principally as a matter of convenience, as to do so would require notable physical alterations, which were not necessary for the purposes of occupying the building as a single dwelling.

It is recognised that utility bills are a common means of demonstrating the lawful use of a building as a dwellinghouse, as they help identify a specific date from which the use commenced.

The circumstances surrounding this application are different in so much that the former flats already had services and a new residential unit was not being created where one had not previously existed.

Since January 2007 the phone lines have been reduced from three to two. The applicant uses one phone line specifically for using the computer and the other as a conventional phone line. There is also only one TV license registered to the building.

Following the purchase of the ground floor flat all bills associated with the occupation of the dwelling have been paid by the applicant, as stated in the applicant's Statutory Declaration. The applicant has also installed a single entry-phone system.

On 30th April 2008 the applicant wrote to the Valuation Agency to request that the building be considered as a single dwelling for the purpose of calculating Council

Tax (see Appendix 6). The letter explains, in detail, the history behind the occupation of the three former flats as a single dwellinghouse.

Appendix 7 contains a copy of a letter from the Valuation Officer, dated 7th May 2008, acknowledges receipt of the aforementioned letter.

Appendices 8-9, include copies of Council Tax forms that have been returned by the applicant to the Council's Council Tax and Business Rates Department. The applicant's hand written text on the forms identify that the forms that she has been asked to complete are not applicable to her circumstances as the property is occupied as one unit.

The applicant's handwritten note on the form sent by the Council Tax and Business Rates Department dated 25th November 2009 (Appendix 8) states:

"There is no change in my or my properties circumstances since last year. The questions overleaf do not meet my circumstances, which have been well documented and discussed over the years".

The applicant's handwritten note on the form sent by the Council Tax and Business Rates Department dated 20th August 2010 (Appendix 9) states:

"This form does not suit the circumstances where I own 3 flats in No.2 Briardale Gardens. Nothing has changed since you last asked in 2009."

More recently, on the 31st January 2014, the applicant wrote a detailed letter to the Council's Council Tax and Business Rates Department in response to formal enquiries regarding the current occupation of the three former flats (see Appendix 10). The letter, which provides commentary on the occupation of the property, states:

"When I subsequently purchased Flat Ground Floor, I then lived in all three flats as one property, which I have done since January 2007".

In summary, the facts contained in the Statutory Declarations are supported by the information contained in appendices 5-10. The applicant has openly and repeatedly informed the Council's Council Tax and Business Rates Department that the property was being occupied as a single dwelling.

It is my considered view that the evidence submitted in support of this application meets the requirements of NPPG in that it is ***"sufficiently precise and unambiguous"*** to demonstrate that the property has been occupied as a single dwellinghouse since April 2007.

5. CONCLUSION

Section 171B(2) of the 1990 Act states that a building used as a dwellinghouse becomes immune from enforcement action, and lawful, once four years have passed from the date that the use was commenced.

On the basis of the evidence presented it is clear that:

- The existing floor plans demonstrate that the property has the facilities required for day-to-day private domestic existence;
- No.2 Briardale Gardens has been occupied as a separate dwellinghouse for a continuous period of nearly 7 years; and
- There has been no break in the continuous use of the property that would preclude the application of s.171B(2).

The NPPG advises that CLEUD applications should be determined ***“on the balance of probability”*** and that ***“if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application...”***

In the absence of any information to the contrary it is submitted that this application should be approved.

SG/J/13/032

September 2014