

LDC Report	23/09/2014
Officer	Application Number
Katrine Dean	2014/4852/P
Application Address	Recommendation
84 Cleveland Street London W1T 6NG	Approve
1st Signature	2nd Signature (if refusal)
Proposal	
Use of property as 4 self-contained flats	
Assessment	
<p>The application site is located 84 Cleveland Street</p> <p>The application relates to a four storey corner terraced building.</p> <p>The building is not listed and is located in the Fitzroy Square Conservation Area.</p> <p>The application seeks to demonstrate that four flats have existed and have been used for residential purposes for a period of over 4 years and that the continued residential use would therefore not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 or more years.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Confirmation from EDF Energy regarding energy accounts for three flats; • Confirmation from UK Power Networks for 1 flat; • Confirmation from Camden Council regarding Council Tax; and • Confirmation from Camden regarding Electoral Register. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site; and • Existing floor plans. <p>Council's Evidence</p>	

There is no relevant planning history or enforcement action on the subject site.

The Council Tax Team has confirmed that the liability for Council Tax for three of the flats started on 01/10/1996 and that the basement and ground floor flat was registered since 13/07/1998. It has been in payment continuously since then.

A site visit to the property was undertaken on the 01/10/2014. The property was undergoing refurbishment works at the time of the site visit.

Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the “balance of probability”, and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of a certificate. 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.

The Council does not have any evidence to contradict or undermine the applicant’s version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the basement and ground floor, first floor, second floor and third floor units have existed in residential use for a period of more than 4 years as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Approve