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| LDC Report | | 24/10/2014 |
| Officer | | Application Number |
| Katrine Dean | | 2014/5448/P |
| Application Address | | Recommendation |
| 189 King's Cross Road London WC1X 9DB | | Approve |
| 1st Signature | | 2nd Signature (if refusal) |
| | | |
| Proposal | | |
| Use of part of ground floor retail unit as a self-contained dwelling | | |
| Assessment | | |
| <p>The application site is located on King's Cross Road.</p> <p>The application relates to a ground floor unit within the building, which is being used a self-contained residential unit.</p> <p>The building is not listed and is located in King's Cross St Pancras Conservation Area.</p> <p>The application seeks to demonstrate that the residential use has existed for a period of 4 years or more and that such that the continued use would 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"> • 1 year tenancy agreements covering the period between 15/08/2009 and 29/09/2013; • Statutory declarations from the owner and the freeholder of the building that the unit was converted and made ready to use for residential letting as a self-contained flat by July 2009 and that the flat was permanently occupied for residential purposes since 15/08/2009. • Statutory declaration from an architect who is familiar with the property that it has been occupied for residential purposes since 15/08/2009. • Statutory declaration from the letting agent, confirming that the property has been let as a residential flat since 15/08/2009. <p>The applicant has also submitted the following plans:</p> | | |

- A site location plan outlining the application site

Council's Evidence

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

Council tax has confirmed that the liability for Council Tax started on 15/08/2009. It has been in payment continuously since then.

A site visit to the property was undertaken on the 15/10/2014. The officer was satisfied that the unit appears to have been occupied for residential use.

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 lower ground floor unit has 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