

<b>LDC Report</b>		30/10/2014	
<b>Officer</b>		<b>Application Number</b>	
Sam Watts		2014/5692/P	
<b>Application Address</b>		<b>Recommendation</b>	
15 B Buckland Crescent London NW3 5DH		See decision notice.	
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>			
Use of 15b and 15c as one-self-contained residential unit (C3)			
<b>Assessment</b>			
<p>The application site is located on the east side of Buckland Crescent</p> <p>The application relates to a single dwelling at number 15B Buckland Crescent</p> <p>The building is not listed and is located in the Belsize Park Conservation Area.</p> <p>The application seeks to demonstrate that 15B Buckland Crescent has existed as a single dwelling for a period of 4 years or more 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><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• 3 x affidavits dated 06/10/2014</li> <li>• 1 x insurance premium bill for 15C Buckland Crescent dated 07/07/2009</li> <li>• 1 x invoice for 15C Buckland Crescent dated 09/06/2009</li> <li>• 1 x certificate of incorporation of a private limited company dated 09/07/2014</li> <li>• 1 x council tax bill for flat C dated 13/03/2004 for the period 01/04/2004 – 31/03/2005</li> <li>• 1 x water services bill for 2<sup>nd</sup> floor 15C Buckland Crescent for the period 01/04/2008 – 31/03/2009</li> <li>• 1 x business banking letter from Natwest dated 07/07/2009.</li> <li>• 1 x letter from RIBA Insurance Agency dated 20/08/2009.</li> <li>• 1 x letter from S- Hiley Construction requesting the relocation of 15b to 15c Buckland</li> </ul>			

Crescent.

The applicant has also submitted the following plans:

- A site location plan outlining the application site

## Assessment

### Council's Evidence

Planning History:

**15B Buckland Crescent - 2010/1999/P** - Erection of side extension at first floor level to existing ground and first floor maisonette (Class C3). – **Granted 22/06/2014**

**15A Buckland Crescent - 2010/6809/P** - Retrospective application for installation of cedar cladding to lower ground floor side elevation (Class C3). – **Granted 22/02/2011**

**15A Buckland Crescent – 2012/5516/P** - Installation of railings and decking to form an external terrace over second floor side extension of residential property (Class C3). – **Allowed on appeal 24/09/2014**

It is important to note that the applicant for both of these addresses were Mr and Mrs Marsoni.

Council tax have confirmed that the liability for Council Tax started on 01/05/1994. It has been in payment continuously since then. There are, however, council tax records for 5 separate addresses on this property, but only three of these still exist.

A site visit to the property was undertaken on the 01/10/2014. The officer was satisfied that the unit had been occupied as residential use for some time.

## 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.

Although the Council tax records for the property show the first and second floor are in use as two separate dwellings, there are three sworn signed affidavits, all which state the property has been in use as a single dwellinghouse for at least four years. Advice has been taken from our legal department who have stated that provided there is not substantial contradictory evidence, the affidavits should carry weight in this instance.

The applicant has also provided an email which accounts for this discrepancy in which they state

that given Flat B and C had different deeds, they didn't think they would be allowed to amalgamate the two separate council taxes into one. He also stated that by keeping the council tax separate, the overheads of his and his wives businesses could be kept separate to the rest of the household.

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**