

<b>LDC (Existing) Report</b>		<b>Application number</b>	2014/5456/P
<b>Officer</b>		<b>Expiry date</b>	
Obote Hope		02/02/2015	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
149 Gloucester Avenue London NW1 8LA			
<b>Conservation Area</b>		<b>Article 4</b>	
Yes		No	
<b>Proposal</b>			
Use of the property as 1 x4Bed residential dwelling.			
<b>Recommendation:</b>		Grant lawful development certificate	

The application relates to a 3-storey property plus attic and basement located on the south-western side of Gloucester Avenue. The property has a 2 storey out-shot at the rear spanning basement and ground floor level. The top of this structure forms a terrace and is enclosed by railings.

The site forms part of the Primrose Hill Conservation Area and is subject to an Article 4 Direction removing permitted development rights.

The application relates to the use of the lower-ground, ground, first, second and third floor of the property as single dwellinghouse:

The application seeks to demonstrate that the use of the ground, first, second and third floor of the property as a singledwelling house has existed for a period of 4 years or more such that the continued use would not require planning permission.

The applicant is required to demonstrate, on balance of probability that the existing self-contained residential unit has existed for a period of 4 or more years.

### **Applicant's Evidence**

The applicant has submitted the following information in support of the application:

- Sign affidavit dated 17th October 2014 from Currey & Co.LLP. Confirming the use as a residential dwelling;
- Council Tax records dated 01<sup>st</sup> September 1997 to 31<sup>st</sup> March 1998;
- Council Tax records dated 01<sup>st</sup> April 1998 to 31<sup>st</sup> March 1999;
- Council Tax records dated 01<sup>st</sup> April 1999 to 31<sup>st</sup> March 2000;
- Council Tax records dated 01<sup>st</sup> April 2000 to 31<sup>st</sup> March 2001;
- Council Tax records dated 01<sup>st</sup> April 2002 to 31<sup>st</sup> March 2003;
- Council Tax records dated 01<sup>st</sup> April 2003 to 31<sup>st</sup> March 2004;

- Council Tax records dated 01<sup>st</sup> April 2004 to 31<sup>st</sup> March 2005;
- Council Tax records dated 01<sup>st</sup> April 2006 to 31<sup>st</sup> March 2007;
- Council Tax records dated 01<sup>st</sup> April 1997 to 31<sup>st</sup> March 2008;
- Council Tax records dated 01<sup>st</sup> April 2009 to 31<sup>st</sup> March 2010;
- Council Tax records dated 01<sup>st</sup> April 2010 to 31<sup>st</sup> March 2011;
- Council Tax records dated 01<sup>st</sup> April 2011 to 31<sup>st</sup> March 2012;
- Council Tax records dated 01<sup>st</sup> April 2013 to 31<sup>st</sup> March 2014;
- Council Tax records dated 01<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015.

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Existing, lower ground, ground first, second and third floor plans

### **Council's Evidence**

**2006/3469/P** PP for: Additions and alterations to existing dwelling house including infill extension at basement level, enlarge existing balcony at ground floor level and partially enclose with glazing and erection of external stairs between ground floor and basement level. Granted on **15/09/2006**

**25069** PP for: Change of use and works of conversion, including the provision of a spiral staircase at the back of the rear extension, to provide three self-contained maisonettes. Granted on **29/07/1977**

The officer was satisfied that the property had been occupied as residential dwelling for 4 or more years.

### **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. Furthermore, the VOA website confirms that the property is a single dwellinghouse from 01/09/1997.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the property has been in use as single family dwelling, 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:**  
**Grant lawful development certificate**