

APCAR SMITH PLANNING

Chartered Town Planning Consultants

2014/7393

Our Ref: CA/grc/2846

Planning Department
London Borough of Camden
5 Pancras Square
London
N1C 4AG

17 October 2014

Dear Sirs

35 Estelle Road, London, NW3 2JX

On behalf of our client, Mr John Sidel (owner/occupier of the above property) we enclose herewith an application for a Certificate of Lawfulness of Existing Use in respect of the use of the entire property as a single family dwelling house.

The application documentation comprises the following:

- Our client's cheque for the sum of £385 as the required application fee.
- 4 copies of application form.
- 4 copies of site location plan.
- 4 copies of existing floor plans.
- 4 copies of Schedule of Evidence and each of the items of evidence to which the Schedule refers.

On 22 September 1971 planning permission was granted for the conversion of 35 Estelle Road into three self-contained units, including a new dormer and addition to a rear extension (Ref: CTP/E9/10/9/11454). That permission was implemented. Subsequently, on 14 January 2010 planning permission was granted for the change of use from three self-contained residential units (3 x 2 bed units) to two self-contained residential units (1 x studio flat and 1 x 4 bedroom unit) (Ref: 2009/5481/P).

The Officer's delegated report from the 2009 planning application is included as evidence in support of this application for a Certificate of Lawfulness. As it refers in the first paragraph under the sub-heading "Site Description", it was noted, during

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Principal: Carolyn Apcar BA Hons. MRTPI

the site visit, that the property was set out at that time as a single family dwelling house. It is clear from this the change of use to single family dwelling from three self-contained dwellings occurred prior to 14 December 2009 when the Officer carried out his site visit in connection with application Ref: 2009/5481/P.

Thus the Council, and indeed specifically the Planning Department, have been aware of the use which this application for a Certificate of Lawfulness seeks to regularise, for almost 5 years. There can be no suggestion that the use as a single family dwelling has been deliberately concealed from the Council (ie; Section 171BC of the Town and Country Planning Act 1990 (as amended) does not apply).

As the submitted evidence proves, the 2009 planning permission was not implemented. The use as a single family dwelling, which the Officer noted in December 2009, has continued to the present day.

It is believed that the evidence quite clearly proves that the property has comprised a single family dwelling unit for in excess of 4 years. The entire building is laid out and occupied as part of the single dwelling for the family and, from time to time, their guests. Both the Applicant and his wife have relatives abroad who stay with them for brief periods (as some of the submitted Statutory Declarations refer). However there is no separate unit of accommodation (even ancillary accommodation) within the dwelling. There is just one kitchen as well as the various bedrooms, reception areas/music room/study and bathrooms.

Section 171B(2) of the Town and Country Planning Act 1990 states that where there has been a breach of planning control comprising a change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach. The breach in the case of 35 Estelle Road took place prior to December 2009. The single dwelling house created from the three previous dwellings having been combined has thus been in existence for in excess of the requisite 4 year period.

As referred to above there has been no "concealment" in terms of Section 171BA-BC.

Section 191(2) of the Act states that uses and operations are lawful if no enforcement action may be taken in respect of them, including if the time for enforcement action has expired. As this single family dwelling has existed for more than 4 years the time for enforcement action has expired and thus, in accordance with Section 191(2), the use as a self-contained dwelling house is now lawful.

In considering the evidence as you will be aware the relevant test is the "balance of probability". 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

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refuse the application provided the Applicant's evidence is sufficiently precise and unambiguous. We hope that you will agree that sufficient evidence has been submitted to prove the lawfulness of the use on the balance of probability and thus hope that the required Certificate of Lawfulness can be issued.

Should the Planning Officer to whom this application is allocated wish to inspect the premises internally I would be grateful if he/she could contact me to make the necessary arrangements.

Yours faithfully



Carolyn Apcar

Enc.

c.c. J Sidel Esq.,