

LDC Report		04/02/2015	
Officer		Application Number	
Rob Tulloch		2015/0607/P	
Application Address		Recommendation	
67 Camden Mews London NW1 9BY		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Use of ground floor as residential flat			
Assessment			
<p>The application site is located on the north side of Camden Mews.</p> <p>The application relates to the ground floor.</p> <p>The building is not listed and is located in the Camden Mews Conservation Area.</p> <p>The application seeks to demonstrate that the ground floor has been in residential use 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 use has existed for a period of 4 or more years.</p> <p>Permission was granted on 17th June 2000 for “Redevelopment of the site by the erection of a two storey building comprising Class B1 floorspace at ground floor level and a residential unit over.” (PE9901032R1). The building was erected in accordance with the approved plans and details of design and materials subsequently approved. The applicant contends that the use of the ground floor as a separate commercial unit was never implemented, and that both ground and first floors (the whole site) have been in a continuous use as a single residential unit since the building was first occupied in 2002.</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"> • A Land Registry Certificate indicating ownership of the whole site from 25th January 2010 • Photos of the ground and first floors indicating a residential use • A statement signed by the applicant (Mr Conley) confirming that 			

- the applicant moved into the property on 8th January 2010 and has occupied both floors of the site as a single residential unit continuously since that date
- The premises were marketed as residential at the time of sale
- Confirmation of payment of council tax by Mr Conley from 8th January 2010 to 31st March 2015
- A statutory declaration from the previous owner (Mr Fitzpatrick) stating that that whilst the site was re-developed physically in accordance with planning permission PE9901032R1, the ground floor was never used for commercial purposes but was always solely residential, and that Mr Fitzpatrick occupied the premises as a single dwelling from August 2002 to the end of 2007

The applicant has also submitted the following plans:

- Approved plans (PE9901032R1)

Council's Evidence

PE9901032R1 Planning permission was granted on 17th June 2000 for "Redevelopment of the site by the erection of a two storey building comprising Class B1 floorspace at ground floor level and a residential unit over."

PEX0201043 Approval of details was granted on 4th December 2002 for "Retrospective application for the submission of details of facing materials and roofing materials pursuant to additional condition 01 of the planning permission dated 17th June 2002 (Reg. No. PE9901032/R1)."

PEX0201026 Approval of details was granted on 28th November 2002 for "Submission of details of design of elevations to ground floor frontage pursuant to additional condition - 02 to planning permission dated 17/6/02 (Reg No: PEX9901032R1)"

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 been 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

