



HC/JT/LON.0251

9 June 2015

Development Management
Camden Council
Camden Town Hall Extension
Argyle Street
London
WC1H 8EQ

Dear Sir /Madam

Town and Country Planning Act 1990 (As Amended) – Section 191
8 Greenaway Gardens, Hampstead, London NW3 7DJ
Certificate of Lawfulness of Existing Use or Development (CLEUD)
Planning Portal Reference – PP-04249930

Pegasus Group are instructed on behalf of Mr and Mrs A. Cedar to submit a Lawful Development Certificate in respect of the above address.

The information submitted to the LPA accords with the statutory requirements set out in Section 192(3) of the Town and Country Planning Act 1990 (as amended) and Part 8, Section 39(2) of the Development Management Procedure Order 2015. This includes: specifying the land to which the certificate relates; describing the use in question; providing the evidence to verify the application; and completing the relevant required information contained within the application form.

Accordingly, please find enclosed the following documentation which was submitted via the Planning Portal (Ref. PP-04249930):

1. Relevant application form duly signed and completed;
2. Site Location Plan (Drg. No. LON.0251_02);
3. The Following Evidence Documentation;
 - a. Building Regulations Completion Certificate (dated 31 March 2011);
 - b. Contractor (JCT) Agreement;

23 Hanover Square, London W1S 1JB

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- c. Statutory Declaration (Mr A. Cedar);
 - d. Statutory Declaration (Mrs M. Cedar)
 - e. Statutory Declaration (Mr J. Tarzey);
 - f. Statutory Declaration (Mrs J. Ramos);
 - g. Statutory Declaration (Mr Z. Sachee);
 - h. Statutory Declaration (Mrs N. Sachee)
 - i. Confirmation of Electoral Role Register;
 - j. Utility Bills (Gas / Electric / Water / TV Licence);
 - k. Confirmation of Residents Parking Permit;
4. A copy of the following drawings;
- a. Survey Drawings (August 2008):
 - i. Basement (1082/S 02)
 - ii. Ground Floor (1082/S 03)
 - iii. First Floor (1082/S 04)
 - iv. Second Floor (1082/S 05)
 - b. Building Regulations Approval Drawings:
 - v. Basement (1082/WD 02A)
 - vi. Ground Floor (1082/WD 03B)
 - vii. First Floor (1082/WD 04A)
 - viii. Second Floor (1082/WD 05A)

Legislative Framework

Section 191 of the Town and Country Planning Act 1990 (as amended) ('the Act') makes provision for the submission for Certificates of Lawfulness of Existing Use or Development (CLEUD).

Section 191(2) of the Act identifies that uses and operations are 'lawful' if no enforcement action may be taken and the applicant is not in contravention of any enforcement notice which is in force. To confirm, no enforcement notice is presently in force for the property.

Section 171B of the Act identifies timeframes after which enforcement action cannot be taken. In respect of residential dwellings, Section 171B(2) states:

"where there has been a breach of planning control consisting in the change of use of any building to a use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of that breach".

The National Planning Policy Guidance (NPPG) provides specific advice on Lawful Development Certificates, stating:

"In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to

refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability." (Paragraph: 006 Reference ID: 17c-006-20140306):

Proposal

This Certificate of Lawfulness of Existing Use or Development (CLEUD) application seeks to demonstrate that the use of the lower ground, ground, first and second floors of No. 8 Greenaway Gardens has been in use as a single residential dwelling for a period of 4 years or more, such that the continued use would not require planning permission and no enforcement action can be taken against the subject property.

Site Description

The application site is a three storey (plus lower ground floor), 1920's detached property located on the west side of Greenaway Gardens, Hampstead. The house is a period property comprising of red brick with prominent chimneys, dormer windows and classically influenced window detailing. Car parking and landscaping is provided at the front of the building, with dual vehicular accesses onto Greenaway Gardens. To the rear of the site is a mature, landscaped garden which is approximately 40m in length.

The site is located within the Redington/Frogna Conservation Area with this area (sub area six) characterised by large, detached, red brick, two/three storey neo-Georgian houses and mature vegetation in a sylvan setting. The building is not statutorily listed, nor is it protected as one of local importance.

The principle pedestrian access to the property is located centrally on the north east elevation of the building. A secondary entrance is provided on the north east elevation (which provides access to second floor alone), however this is set back from the building frontage behind a gate and a secondary garden wall/fence. The internal configuration of the property prior to purchase by Mr and Mrs A. Cedar in January 2009, and following completion of building works in November 2010, is set out within the accompanying drawings (as listed above).

Background

Prior to the applicant's purchase of the property, the building was divided into three self-contained dwellings; namely No. 8 (comprising lower ground floor, ground floor and part of first floor), No. 8A (part of first floor) and No. 8B (second floor) Greenaway Gardens.

Planning permission was granted on 23 September 2008 for the change of use of No. 8 and No. 8A to form a single residential unit (App. Ref: 2008/3825/P). This permission proposed the retention of No. 8B Greenaway Gardens as a separate self-contained flat at second floor level.

As identified within the enclosed Statutory Declaration, the applicant (Mr and Mrs A. Cedar) purchased the property on the 8th January 2009 and implemented the above planning permission, with building works completed on the 5th November 2010 as evidenced by the Building Regulations Completion Certificate dated 31 March 2011. Since the 5th November 2010 the property has been occupied as a single dwelling house, with no separate occupation of the second floor (No. 8B). Internal building works (as reflected on the Building

Regulations drawings) linked the lower ground / ground / first floors with the second floor, although the latter was also capable of independent and separate access.

The applicant has also secured and implemented planning permission for a rear ground floor and basement extension, including associated landscape works (App. Ref: 2008/4718/P and subsequently revised application 2010/0557/P).

Evidence

When determining Certificate of Lawfulness applications, the burden of proof lies firmly with the applicant. The relevant test is the "balance of probability", and local planning 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.

Importantly, 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 the determination of an application.

The below and supporting 'Evidence Documentation' demonstrates that No.8 Greenaway Gardens has been occupied as a single residential dwelling for longer than 4 years:

- Internal configuration – As demonstrated within the accompanying drawings which were submitted for Building Regulations approval, the internal layout of the property constitutes a single residential dwelling, with the second floor (formerly No. 8B) utilised as a home gym and guest bedroom / bathroom with no independent kitchen facilities.
- Building Regulations Certificate – Evidence of Building Regulations Final Certificate demonstrated that internal refurbishment works create a single residential dwelling (dated March 2011).
- Contractor Agreement – Agreement with Building Contractor (JCT) dated 22nd June 2009 demonstrating agreement for completion of works by 16th July 2010.
- Statutory Declarations – Mr and Mrs A. Cedar ('the applicant') have provided a Statutory Declaration which states that they have occupied No. 8 Greenaway Gardens as a single residential dwelling since 5th November 2010.
- Statutory Declaration – Mr J. Tarzey (Pegasus Group) has provided a Statutory Declaration stating that he has provided planning advice to Mr and Mrs A. Cedar since the purchase of the property and has visited the site on frequent occasions confirming the occupation of the property as a single residential dwelling since 5th November 2010.
- Statutory Declaration – Mrs J. Ramos (Full-time housekeeper of No. 8 Greenaway Gardens) has provided a Statutory Declaration which states that the property has been occupied as a single residential dwelling since the applicant took ownership in November 2010.

- Statutory Declarations – Mr and Mrs Sachee (No. 9 Greenaway Gardens) have provided a Statutory Declaration which states that to the best of their knowledge the property has been occupied as a single residential dwelling since the applicant took ownership of the property in November 2010.
- Electoral Role – Confirmation that since occupation of the property by Mr and Mrs Cedar, they are the only residents registered on the electoral role at the subject property.
- Utility Bills:
 - Gas – Evidence of single account for gas at the property since applicant's occupation (bills from November 2010 to present day) - NB. There is no separate account for No. 8B Greenaway Gardens, which was terminated upon occupation of the property by the applicant.
 - Electric – Evidence of single account for electricity at the property since applicant's occupation (bills from November 2010 to present day) - NB. There is no separate account for No. 8B Greenaway Gardens, which was terminated upon occupation of the property by the applicant.
 - Water – Evidence of single account for water supply at the property since applicant's occupation (bills from November 2010 to present day). Evidence includes a letter from Thames Water (dated July 2011) acknowledging the removal of a separate water supply to No. 8B Greenaway Gardens.
 - TV Licence – Evidence of annual TV licence since applicant's occupation of property (bills from November 2010 to present day) - NB. There is no separate account for No. 8B Greenaway Gardens, which was terminated upon occupation of the property by the applicant.
- Residents Parking Permit – Evidence of Residents Parking Permit Approval for applicant's cars (dated February 2009) - NB. There is no separate parking permit for No. 8B Greenaway Gardens.
- Council Tax - The VOA currently have two Council Tax records for the property (namely No. 8 and No. 8B), however importantly these Council Tax bills have always been paid by the same payee (Mr and Mrs Cedar). Concurrent with this application submission, the applicant is seeking for the property to be reassessed by the VOA as a single residential dwelling for Council Tax purposes, however would suggest not to alter the billing arrangements until such time as the Certificate of Lawfulness has been granted to justify this change.

The evidence summarised above and presented to the Council is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the building has been occupied as a single family dwellinghouse for in excess of four years before the date of the application as required under the Act. Consequently, there is in our view, no reason why a Certificates of Lawfulness of Existing Use or Development (CLEUD) cannot be issued for the use of No. 8 Greenaway Gardens as a single residential dwelling.



I trust the above and enclosed is sufficient for the validation of this application and look forward to receiving confirmation of this at your earliest convenience. Should you require any further information then please do not hesitate to contact myself or my colleague Henry Courtier.

Yours sincerely,



Jim Tarzey
Director



Enc.