

LDC Report	06/08/2015
Officer	Application Number
Matthew Dempsey	2015/2734/P
Application Address	Recommendation
111 A Sumatra Road, London. NW6 1PL.	Issue Certificate of Lawfulness
1st Signature	2nd Signature (if refusal)
Proposal	
Use as a single family dwelling (C3).	
Assessment	
<p>The application site is located on the south side of Sumatra Road. The property is not listed and does not fall within a conservation area. There is no Article 4 directive in place.</p> <p>The application seeks confirmation that the property is a single dwelling house and retains permitted development rights as such. The owner is in the process of selling and the prospective buyer would like confirmation before exchanging contracts.</p> <p>The application seeks to demonstrate that the property has existed 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>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Informal correspondence with advice from 2 x Camden Council Planning officers • Council tax Bill confirming liability to pay • British Gas Bill confirming connection and payments due • E-mail from Camden Planning officer Mr Sam Watts. • E-mail from Camden Planning officer Mr Neil Luxton. • Photographs of front and rear. <p>The applicant has also submitted the following plans:</p>	

- A site location plan outlining the application site.
- Floor Plans showing only 1 x kitchen over two floors and no sub-division.
- Front Elevation.
- Rear Elevation.

Council's Evidence

Planning permission was granted 04/03/2005, for; "Change of use from a single dwellinghouse to 3 x self-contained flats, including erection of a side extension at first floor level over the existing garage, a single-storey rear extension, and roof alterations comprising a rear dormer window and 2 x rooflights to the front roofslope and 1 x rooflight to the rear roofslope. Planning ref: 2004/5285/P. The application authorised 2 x flats within the existing dwelling being 111 Sumatra Rd, and an additional side extension creating a 3rd unit being 111 A and the subject of this application.

Council Tax records correspond with this and confirm that the liability for 111 A is Council Tax Band E started on 01/05/2006 (the 2 x flats at 111 are Council Tax Band D). It has been in payment continuously since then or has benefitted from usual exemptions/ reductions for unoccupied properties.

A site visit to the property was undertaken on the 24/06/2015. There is a sole access to the property from the front door on to Sumatra Road. The property is not sub-divided into separate flats and there is only one kitchen across two floors.

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 (Planning Practice Guidance 006). 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 applicant has been able to demonstrate that the properties; 111A and 111 Sumatra Road, do not share roof space and therefore 111A can be considered as a single family dwelling.

The Council does not have any evidence to contradict or undermine the applicant's version of events. Having reviewed the property and planning history there is no evidence of permitted development rights being withheld, either in the previous decision notice (2004/5285/P) or in the legal agreement that accompanied it.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the 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

