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| LDC Report | 18/03/2016 |
| Officer | Application Number |
| Tony Young | 2015/7000/P |
| Application Address | Recommendation |
| Flat 1st Floor Rear 1 Skardu Road London NW2 3ES | Grant Certificate of Lawfulness (Existing) |
| 1st Signature | 2nd Signature (if refusal) |
| | |
| Proposal | |
| Use as 1 x 1-bed self-contained flat at rear 1st floor level. | |
| Assessment | |
| <p>The application site is located on the south side of Skardu Road between Cricklewood Broadway to the west and Fordwych Road to the east.</p> <p>The building is not listed and does not sit within a conservation area.</p> <p>The application seeks to demonstrate that on the balance of probability the use as a 1-bed self-contained flat at rear 1st floor level began more than four years before the date of this application such that their retention would not require planning permission.</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"> • Council Tax Statements dated from 31/12/08 to the present confirming the existence of a self-contained flat since at least 2009 until the present day. • Tenancy Agreements from Miss Edna Cabuena (tenant) between 16/11/09 - 16/11/14 demonstrating the existence of a self-contained flat since at least 2009. • Tenancy Agreement from Miss Azadeh Tajer (tenant) between 20/08/14 - 19/08/15 demonstrating the existence of a self-contained flat during that period. • Tenancy Agreement from Mr Kourosh Akhavanra (tenant) between 01/04/2015 to present demonstrating the existence of a self-contained flat during that period. • Tenancy Agreement from Mr and Mrs Ghanbari Kalashi (tenant) between 02/05/15 to present demonstrating the existence of a self-contained flat during that period and until the present day. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Site location plan outlining the application site; | |

- KGS/SKA/271P/1B – showing the ground and 1st floor plans.

Council's Evidence

There is relevant planning and enforcement history on the subject site:

2007/2172/P – Change of use of a dwellinghouse, including the erection of a ground floor rear extension and a roof extension including a hip to gable conversion and erection of a rear dormer window on the rear roof slope to provide 1 x 2 bed and 1 x 3 bed self-contained residential units (Class C3). Granted planning permission dated 25/06/2007

2007/0384/P - Erection of roof extensions comprising conversion of hip to gable end and a full width dormer on the rear roof slope, erection of two-storey rear extension at ground and first floor level in connection with change of use of the single-family dwellinghouse to two self-contained flats (1 x 2-bedroom and 1 x 3-bedroom). Refused planning permission dated 19/04/2007

9005282 - Change of use and works of conversion including a ground floor rear extension to provide two three bedroomed self-contained units. Granted planning permission dated 12/02/1991

TP22582/1938 - Conversion into two flats. Granted planning permission dated 27/07/1938

Enforcement history:

EN10/0196 - Removal of fence to create a pathway. Case closed 09/03/2010

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 Practise Guidance para. 006), 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 documents provided demonstrate that the use as a self-contained flat at rear 1st floor level had begun since at least 2009 and has remained unaltered until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the use as a 1-bed self-contained flat at rear 1st floor level began more than four years before the date of this application as required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Approve