

LDC Report	11/03/2016
Officer Tony Young	Application Number 2015/6318/P
Application Address 56B Chalk Farm Road London NW1 8AN	Recommendation Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal Use as 1 x 1-bed self-contained flat at rear ground floor level.	
Assessment	
<p>The application site is located on the north side of Chalk Farm Road between Belmont Street to the west and Ferdinand Street 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 ground 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"> • Statutory declaration from John Michael Kenney (applicant/owner) dated 13/01/2016 asserting the existence of a self-contained flat since April 2004 • Letter regarding building works dated 24/05/2006 confirming the existence of a self-contained flat in 2006 • Household insurance document dated 07/01/2011 confirming the existence of a self-contained flat in 2011 • Cash invoice for building works dated 05/04/2005 <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Site location plan outlining the application site; • 0120 rev D – ground floor plan; • Unnumbered (part) ground floor plan. <p>Council's Evidence</p>	

There is relevant planning history and no enforcement history on the subject site:

2015/2191/P - Reconfiguration of internal floor plans (for floors 1-4 only), as an amendment to planning permission granted 12/01/15 (ref: 2014/3606/P) for erection of a three storey half width rear extension at first, second and third floor level and single storey roof extension in association with change of use from upper floor maisonette to 4x1 bedroom flats (Class C3) on upper floors and retention of retail unit (Class A1) at ground floor level. Approved non-material amendment dated 07/10/2015

2014/3606/P - Erection of a three storey half width rear extension at first, second and third floor level and single storey roof extension in association with change of use from upper floor maisonette to 4 x 1 bedroom flats (Class C3) on upper floors and retention of retail unit (Class A1) at ground floor level. Granted planning permission dated 12/01/2015

2010/6300/P - Erection of a three storey half width rear extension at first, second and third floor level and single storey roof extension in association with change of use from upper floor maisonette to 4 x 1 bedroom flats (Class C3) on upper floors and retention of retail unit (Class A1) at ground floor level. Granted planning permission dated 14/06/2011

2003/1974/P – Certificate of lawfulness for an existing use as retail (Class A1). Granted lawful development certificate dated 10/09/2003

PEX0100985 - Installation of a new shopfront, fascia and roller-shutter. Granted planning permission dated 12/02/2002

8401553 - The installation of a new shop front. Granted planning permission dated 24/10/1984

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 ground floor level had begun since at least 2004 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 ground 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