

<b>LDC Report</b>	03/06/2016
<b>Officer</b>	<b>Application Number</b>
Tony Young	2016/2023/P
<b>Application Address</b>	<b>Recommendation</b>
Flat 3 8 Mansfield Road London NW3 2HN	Grant Certificate of Lawfulness (Existing)
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Use as a self-contained 1-bed maisonette at 2nd and 3rd floor levels with rear 2 <sup>nd</sup> floor roof terrace.	
<b>Assessment</b>	
<p>The application site is a 3-storey terraced property located on the northern side of Mansfield Road near the intersection with Agincourt Road to the west. The host property itself and wider terrace are in residential use. Originally built as a single family dwelling house, the building is divided into 3 self-contained units.</p> <p>The building is not listed and sits within the Mansfield Conservation Area.</p> <p>This application relates to the 2<sup>nd</sup> and 3<sup>rd</sup> floors only and seeks to demonstrate that on the balance of probability that the use as a self-contained 1-bed maisonette with rear 2<sup>nd</sup> floor roof terrace began more than four years before the date of this application such that their retention would not require planning permission.</p>	
<b>Applicant's Evidence</b>	
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Letter from London Borough of Camden dated 17/03/1977 confirms the existence of a self-contained maisonette at 2<sup>nd</sup> and 3<sup>rd</sup> (attic) floor levels since at least 1977;</li> <li>• Lease (extract) document dated 08/12/1978 confirms the existence of a separate residential dwelling at 2<sup>nd</sup> and attic floor levels since at least 1979 and makes reference to a roof garden above a 1<sup>st</sup> floor kitchen and bathroom;</li> <li>• Builder's invoice from Deck Tile Company Ltd to Fr. James Elston (leaseholder) dated 05/09/2011 detailing the purchase of tiles to deck the roof terrace floor, suggesting the existence of a rear roof terrace since at least 2011.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>• Unnumbered site location plans outlining the application site;</li> </ul>	

- 2<sup>nd</sup> and 3<sup>rd</sup> floor plans (ref. 875-PL-01 rev P1).

### **Council's Evidence**

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

2015/6418/P – (Flat 3) Installation of glass and steel balustrade to existing flat roof terrace at second floor level, including works to raise an existing low parapet wall, new copings and decking. Planning permission granted 06/01/2016

PE9800367 – (Flat 1) Use of ground floor as a self-contained flat. Granted certificate of lawfulness (existing) dated 07/07/1998

PL8703040 – (Flat 2) Change of use and works of conversion to form a first floor self-contained flat. Planning permission granted 31/12/1987

Camden's Council Tax and Business Rates records confirm that council tax has been paid for the residential unit at 2<sup>nd</sup> and 3<sup>rd</sup> floor levels (Flat 3) since at least 2011.

### **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 1-bed maisonette with rear 2<sup>nd</sup> floor roof terrace had begun since at least 2011 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 self-contained 1-bed maisonette with rear 2<sup>nd</sup> floor roof terrace 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**