

<b>LDC Report</b>	08/07/2016
<b>Officer</b>	<b>Application Number</b>
Tony Young	2016/1069/P
<b>Application Address</b>	<b>Recommendation</b>
Flats 10 and 11 Linton Court Agar Grove London NW1 0RL	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 two separate 1-bed residential units (Class C3) at ground floor level.	
<b>Assessment</b>	
<p>The property is a 3-storey residential block situated at the junction of Agar Grove and St. Pancras Way. The application relates to a single storey, former garage building at ground floor level situated adjacent to the north-east corner of the main building.</p> <p>The building is not listed and does not sit within a conservation area.</p> <p>This application seeks to demonstrate that on the balance of probability that the use as two separate 1-bed residential units at 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><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>Statutory declaration from Marios Stergides (owner of both units 10 &amp; 11) dated 05/02/2016 asserting that the conversion into 2 separate self-contained residential flats at ground floor level took place on or before 01/04/2009 and has operating continuously ever since;</li> <li>Miscellaneous documents (both units 10 &amp; 11), including schedule of occupants, council tax summary, accommodation charges sheet, London Borough of Camden Housing Needs Group cover letters &amp; purchase orders, London Borough of Islington temporary accommodation documents (various dates from 2009 to present) - confirming the existence of 2 self-contained residential units at ground floor level since at least 2009.</li> </ul> <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> <li>Unnumbered site location plan outlining the application site;</li> </ul>	

- Existing ground floor plan (ref. 160108).

### **Council's Evidence**

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

2004/1018/P - Erection of a two-bedroom dwelling house in place of existing garage and erection of a roof extension to provide a 2-bedroom penthouse flat. Planning permission refused 28/04/2004

2003/1209/P – Demolition of single storey garage building and erection of 5-storey extension, to the side, and over the existing building, to provide 9 x 1-bedroom self-contained flats. Planning permission refused 21/10/2003

8903450 - Erection of an additional mansard storey comprising two flats. Planning permission refused 20/06/1990

8903449 - Erection of a three storey extension over the existing garages to form one flat. Planning permission refused 20/06/1990

Camden's Council Tax and Business Rates records confirm that council tax has been paid for the residential units 10 and 11 by the current tenants since at least 2014, and confirms the existence of the units as residential (Band B) properties since 26/01/2008 and 04/08/2009 respectively.

### **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 two separate 1-bed residential units at ground 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 two separate 1-bed residential units at 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**