

LDC Report	29/07/2015
Officer	Application Number
Darlene Dike	2015/2449/P
Application Address	Recommendation
19 Lyme Street London NW1 0EH	
1st Signature	2nd Signature (if refusal)
Proposal	
Change of use from dwelling house (Class C3) to 2 x 2 bedroom self-contained flats (Class C3).	
Assessment	
<p>The application site comprises three storey plus basement end of terrace property situated on the north side of Lyme Street, close to its junction with Camden Road. The property is not listed but it does fall within the Regent's Canal conservation area and is cited within the Conservation Area Appraisal and Management Plan as making a positive contribution to the conservation area. The property is currently occupied as two self-contained flats, and there is no relevant planning history on the site.</p> <p>This application seeks to demonstrate that the premises has existed as 2 self -contained units 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>	
Applicant's Evidence	
The applicant has submitted the following information in support of the application:	
<ul style="list-style-type: none"> • Tenancy agreement signed on the 29/07/1999, with tenancy beginning on 02/08/1999, between Sarah King and the Community Housing Association for the lower maisonette • Tenancy agreement signed on the 11/03/1977, with tenancy beginning on the 21/03/1977, between Jeff Sawtell and Trudi Sawtell and the Community Housing Association 	
The applicant has also submitted the following plans within a single document:	

- A site location plan outlining the application site
- Existing and proposed floor plans of the basement, ground first and second floors
- Existing and proposed front, rear and side elevation drawings of the property

Council's Evidence –

There is no relevant planning history on the host site however the property is subject to enforcement action under the case with reference EN14/1016 for the creation of two flats without planning permission. .

Council tax has confirmed that the property has been split into two separate dwellings with records for Flat A, Lower Maisonette dating back to the 27th May 1994, and records for Flat B, Upper Maisonette dating back to the 1st April 1996.

A site visit to the property was undertaken on the 17th December 2015. The officer was satisfied that the unit had been occupied as 2 self-contained flats for some time, and the property was clearly currently occupied at the time of the visit.

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 (DOE Circular 10/97, 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 information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ 19 Lyme Street has existed as 2 self-contained flats 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

