

LDC Report		21/10/2016	
Officer		Application Number	
Tony Young		2016/4765/P	
Application Address		Recommendation	
31 Rochester Road London NW1 9JJ		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Use as a 2-bed residential unit at lower ground floor level and a 3-bed residential unit over ground & 1st floor levels (Class C3).			
Assessment			
<p>The property is a 3-storey semi-detached Victorian dwelling situated on the north side of Rochester Road and facing Rochester Terrace to the south. The lower ground, ground and 1st floors are currently in residential use and are the subject of this application.</p> <p>The building is not listed and sits within the Rochester conservation area. The building has been identified as providing a positive contribution to the conservation area (Rochester conservation area appraisal and management strategy, adopted December 2001).</p> <p>This application seeks to demonstrate that on the balance of probability the use as a 2-bed residential unit at lower ground floor level and a 3-bed residential unit over ground & 1st floor levels (Class C3) began more than four years before the date of this application such that its retention would not require planning permission.</p>			
Applicant's Evidence			
The applicant has submitted the following information in support of the application:			
<ul style="list-style-type: none"> Statutory declaration made & signed by Rino Ruocco (previous vendor) asserting that the property has been divided into 2 residential units for at least 40 years and has remained so since that time; Various documents, including council tax valuation record (dated 31/03/2011), Royal Mail & electoral roll listing & extracts submitted by way of supporting evidence for the assertion that the residential use of the lower ground, ground and 1st floors has operated since at least 2011. 			
The applicant has also submitted the following plans:			
<ul style="list-style-type: none"> Unnumbered site location plan outlining the application site; 			

- Existing lower ground, ground and 1st floor plans (ref. 23819A-1, 23819A-2, 23819A-3).

Council's Evidence

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

2009/0669/P - Erection of a two storey rear extension at lower ground and ground floor levels to enlarge accommodation to the existing flat and maisonette and associated window alterations to side elevation. Planning permission refused dated 20/03/2009 by reason of the height, size and bulk of the proposed extension.

The existing floor plans (ref. 01) dated December 2008 submitted as part of the above application show the floors to be divided into 2 separate residential units and this is supported with the case officer's report dated 20/03/2009.

EN11/1028 - Installation of swing opening windows to front elevation of property. No breach found dated 25/09/2012

Camden's Council Tax and Business Rates records confirm that council tax has been paid for residential use since at least 2013 on no. 31 and 2005 on no. 31A.

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 2-bed residential unit at lower ground floor level and a 3-bed residential unit over ground & 1st floor levels (Class C3) 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 2-bed residential unit at lower ground floor level and a 3-bed residential unit over ground & 1st floor levels (Class C3) 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