

LDC Report	01/12/2016
Officer	Application Number
Tony Young	2016/5423/P
Application Address	Recommendation
79 Dartmouth Park Hill London NW5 1JD	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as 4 self-contained flats (2 x 1-bed, 2 x 2-bed) at basement, ground, 1st and 2nd floor levels (Class C3).	
Assessment	
<p>The building is a detached 4-storey residential property situated on the western side of Dartmouth Park Hill at the junction with Dartmouth Park Avenue. The basement, ground, 1st and 2nd floors are the subject of this application and were vacant at the time of the officer's site visit. The basement (lower ground floor) flat is known as no. 79A and is accessed from Dartmouth Park Avenue with its own exclusive use of a large rear garden. All other flats are accessed from the same entrance fronting Dartmouth Park Hill.</p> <p>The building is not listed and sits within the Dartmouth Park conservation area. The building has been identified as providing a positive contribution to the conservation area (Dartmouth Park conservation area appraisal and management plan, adopted January 2009).</p> <p>This application seeks to demonstrate that on the balance of probability the use as 4 self-contained residential flats (2 x 1, 1 x 2, 1 x 3 bed) at basement, ground, 1st and 2nd 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 Paul Stuart Allen & Martin Northcott Allen (Executors of the registered proprietor of the freehold of the property) dated 26/09/2016 asserting that the registered proprietor divided the property into 4 residential flats in 1974 and it has remained so since that time. Further, that the property is currently billed for council tax as 4 separate units and has continued to be billed as such since 1993; Council Tax Valuation Listing from DirectGov (dated 10/01/2016) submitted by way of supporting evidence for the sub-division of the property into 4 separate residential units paying council tax. 	

The applicant has also submitted the following plans:

- Unnumbered site location and site plans outlining the application site;
- Existing basement, ground, 1st, 2nd and roof plans (all referenced 79DPH and dated 20/09/2016);
- Existing east, west, rear and front elevation drawings (all referenced 79DPH and dated 20/09/2016).

Council's Evidence

There is no relevant planning or enforcement history on the subject site.

Camden's Council Tax and Business Rates records confirm that council tax has been paid for 4 residential units since at least 2007.

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 and Council evidence demonstrate that the use as 4 self-contained residential flats at basement, ground, 1st and 2nd floor levels had begun since at least 2007 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 4 self-contained residential flats (2 x 1, 1 x 2, 1 x 3 bed) at basement, ground, 1st and 2nd 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