

LDC Report	25/10/2016
Officer	Application Number
John Diver	2016/4346/P
Application Address	Recommendation
159 Fordwych Road London NW2 3NG	Approve
1st Signature	2nd Signature (if refusal)
Proposal	
Continued use of property as 12 bedroom HMO (Sui Generis)	
Assessment	
<p>The application relates to a two storey, detached residential property on the Eastern side of Fordwych Road, NW2. The building is not listed and is not located a Conservation Area. There is no planning or appeal history for the application site.</p> <p>The application seeks to demonstrate that the property has been in continued use as a Sui Generis HMO for a period of 10 years or more such that the continued use would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Letter from LB Camden Environmental Health Team titled '<i>London Borough of Camden (Registration of Houses in Multiple Occupation) Control Scheme 1999</i>' dated 30th October 2002. • Letter from LB Camden Environmental Health Team titled '<i>Houses in Multiple Occupation (HMO) Mandatory Licensing Application Pack</i>' dated 26th October 2006. • Signed copy of '<i>Notice to execute works to make a Houses in Multiple Occupation fit for a number of Occupants</i>' issued by LB Camden Environment Department Operations Manager dated 09 August 2004. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site • Existing Plans (1783-1; 1783-2) 	

Council's Evidence

Correspondence with the Council's Environmental Health officers has confirmed that the property has been licenced as a HMO since 1999/2000.

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

A site visit to the property was undertaken on the 04th October 2016. The officer was satisfied that the unit had been occupied for residential use for some time, with no evidence of recent works.

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' the lower ground floor unit has existed in residential use for a period of more than 10 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve