

LDC Report	06/12/2016
Officer	Application Number
Tony Young	2016/5543/P
Application Address	Recommendation
82 Constantine Road London NW3 2LX	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as 2 self-contained residential units (1 x 2, 1 x 5 bed) at ground, 1st and 2nd floor levels (Class C3).	
Assessment	
<p>The application site is a 3-storey mid-terraced late Victorian property on the southern side of Constantine Road, close to the corner with Mackeson Road. The current application relates to the sub-division of the property into a 2-bed residential unit at ground floor level and a 5-bed maisonette over 1st and 2nd floors. All floors are accessed through a shared entrance door fronting Constantine Road.</p> <p>The building is not listed and sits within the Mansfield conservation area. The building is considered to make a positive contribution to the conservation area (Mansfield conservation area appraisal and management strategy, adopted December 2008).</p> <p>This application seeks to demonstrate that on the balance of probability the use as 2 self-contained residential units (1 x 2, 1 x 5 bed) at 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> <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"> • Council Tax Valuation Listing from DirectGov (dated 03/10/2016) demonstrating the separation of the ground floor unit from other floors and submitted by way of supporting evidence of the sub-division of the property since at least 31/03/2011; • Council Tax statements from London Borough of Camden (various dates) demonstrating the separation of the 1st and 2nd floors unit from the ground floor and submitted by way of supporting evidence of the sub-division of the property since at least 14/03/2008. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Unnumbered site location and block plans outlining the application site; 	

- Existing ground, 1st and 2nd floor plans; (part) side, rear and front elevations (all referenced 2730/1 and dated September 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 2 separate residential units (a ground floor unit and a maisonette over 1st and 2nd floors) since at 01/15/2000.

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 2 self-contained residential units (1 x 2, 1 x 5 bed) at ground, 1st and 2nd floor levels 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 2 self-contained residential units (1 x 2, 1 x 5 bed) at 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