

<b>LDC Report</b>	16/11/2016
<b>Officer</b>	<b>Application Number</b>
Helaina Farthing	2016/6242/P
<b>Application Address</b>	<b>Recommendation</b>
11 Ebbsfleet Road London NW2 3NB	
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Use of property as two self-contained flats	
<b>Assessment</b>	
<p>The application site is located on Ebbsfleet Road and comprises a ground floor flat and a first floor flat. The property is situated on the southern side of Ebbsfleet Road.</p> <p>The application relates to the retention of the ground floor flat at 11 Ebbsfleet Road as a self-contained unit.</p> <p>The building is not listed and is not located within a conservation area.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing ground floor unit and first floor unit has existed for a period of 4 or more years.</p>	
<b>Applicant's Evidence</b>	
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Monthly statutory rent agreement dated the 17<sup>th</sup> of January 1986 for Miss Tina Kawe (First Floor Flat) and Mr P.G Cheney for the ground floor flat;</li> <li>• Council Tax for financial years 2011-2017 addressed to 'Flat 1<sup>st</sup> Floor 11 Ebbsfleet Road';</li> <li>• Council Tax for financial years 2012-2017 addressed to Flat Ground Floor 11 Ebbsfleet Road';</li> <li>• Thames Water 'Water and wastewater bill' dated for the period 2011-2017, letter addressed to '1<sup>st</sup> Floor, 11 Ebbsfleet Road'.</li> <li>• Thames Water 'Water and wastewater bill' for the period 2011-2016, addressed to '1<sup>st</sup> Floor, 11 Ebbsfleet Road'.</li> <li>• NPOWER Energy letter dated 31<sup>st</sup> of January addressed to first floor flat, which stated in letter confirms 'bill started since 19/11/2012';</li> <li>• NPOWER Juice statement dated the 10<sup>th</sup> April 2012 addressed to 'first floor flat, and ground 11 Ebbsfleet Road'.</li> </ul>	

## **Council's Evidence**

CTP/T2/2/6/6379 – 11 Ebbsfleet Road – Erection of single storey rear extension to form w.c. and bathroom on the ground floor of 11 Ebbsfleet Road (Granted: 19<sup>th</sup> February 1969).

Council records confirmed that the property is referenced as 'Ground Floor Flat' and 'First Floor Flat'.

## **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 as a self-contained unit 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: Grant Certificate of Lawfulness (Existing)**