

<b>LDC Report</b>	<b>11/01/2016</b>	
<b>Officer</b>	<b>Application Number</b>	
Robert Lester	2016/6340/P	
<b>Application Address</b>	<b>Recommendation</b>	
298 Gray's Inn Road London WC1X 8DX	Grant LDC	
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>	
<b>Proposal</b>		
Use of flats B and C as 2 self-contained flats (Use Class C3).		
<b>Relevant Planning History</b>		
<ul style="list-style-type: none"> <li>• 8401931 - Erection of a basement ground and three storey building for use as a retail shop on ground and basement floor a one bedroom flat on first floor and a three bedroom maisonette on second and (mansarded) third floor - Granted - 19/03/1985.</li> <li>• 2006/5855/P - Change of use of the ground and basement floors from retail use (Class A1) to financial/professional services use (Class A2) - Granted - 19/03/2007.</li> </ul>		
<b>Assessment</b>		
<p>Permission is sought for a certificate of lawful development for the use of flats B and C as 2 self-contained flats (Use Class C3) under section 191 of the Town and Country Planning Act 1990.</p> <p>The statutory framework covering "lawfulness" for lawful development certificates is set out in section 191(2) of the Town and Country Planning Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.</p> <p>Section 171B of the Town and Country Planning Act 1990 states that development becomes immune from enforcement if no action is taken within 4 years for an unauthorised change of use to a single dwellinghouse.</p> <p>National Planning Practice Guidance states that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. The relevant legal test to consider when evaluating the evidence 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.</p> <p>The site is located at 298 Grays Inn Road and contains a 4 storey building with an estate agent at ground floor level and 3 separate residential flats at first, second and third floor levels. The submitted LDC application is for the use of the second and third floors as 2 separate self-contained flats. This was originally 1 maisonette flat over second/third floor levels following the granting of permission in 1985. The applicant states that the flats have been used separately since 1999.</p>		

A site visit was made on the 30<sup>th</sup> December 2016. The second and third floors are in use as separate flats with separate entrance doors with locks and separate utility meters. There is a second lockable doorway at the top of the stairs at second floor level which provides access to a small lobby where the separate doors to the two flats are located.

The information submitted by the applicant is listed in the attached table:

Year	Address as stated on the evidence submitted					
	298b lower/2 <sup>nd</sup> floor	298 flat b	298b (top/upper flat)	298c	298 third floor	Other Evidence
1999		-6 month tenancy agreement (20 <sup>th</sup> June) -Gas bill.	-6 month tenancy agreement (27 <sup>th</sup> May) -6 month tenancy agreement (1 <sup>st</sup> Dec)			
2000		-Electric bill	-6 month tenancy agreement (1 <sup>st</sup> Sept)			
2001	-Gas welcome letter.			-7 month tenancy agreement (25 <sup>th</sup> Dec)	-Gas bill. -Council tax bill. -Gas letters.	
2002	-Gas letters.	-Electric bill. -Landlord gas safety.		-Gas letters -6 month tenancy agreement (18 <sup>th</sup> Aug).	-Gas letter.	
2003				-Gas inspection letter -Council tax letter.		
2004		-6 month tenancy agreement (18 <sup>th</sup> Sept)				
2005				-6 month tenancy agreement (1 <sup>st</sup> Jan). -6 month tenancy agreement (12 <sup>th</sup> Jan).		
2006		12 month tenancy agreement (7 <sup>th</sup> Dec) -Council tax letter		-Council tax letter		
2007						-Email to Council tax regarding

						flats B & C (Council response refers to 2009)
<b>2008</b>						
<b>2009</b>						
<b>2010</b>		Thames Water bill.				-Student loans letter.
<b>2011</b>		-12 month tenancy agreement (1 <sup>st</sup> March)		-12 month tenancy agreement (20 <sup>th</sup> April) -Gas/Electric Bills		
<b>2012</b>		-12 month tenancy agreement (1 <sup>st</sup> March)		-12 month tenancy agreement (20 <sup>th</sup> April) -Gas/Electric Bills		
<b>2013</b>		-12 month tenancy agreement (1 <sup>st</sup> March).		-12 month tenancy agreement (20 <sup>th</sup> April). --Gas/Electric/ Water Bills.		
<b>2014</b>		-12 month tenancy agreement (1 <sup>st</sup> March).		-12 month tenancy agreement (20 <sup>th</sup> April). --Gas/Electric/ Water Bills.		
<b>2015</b>		--12 month tenancy agreement (1 <sup>st</sup> March).		-12 month tenancy agreement (1 <sup>st</sup> June). -Gas/Electric/ Water Bills.		
<b>2016</b>	Council Tax Bill.	-12 month tenancy agreement (1 <sup>st</sup> March). -Council Tax bill.		-12 month tenancy agreement (7 <sup>th</sup> June). -Gas/Electric/ Water Bills.		-Estate agent letter confirming management of properties.
<b>2017</b>				-Council tax bills for period 2014 – 2017.		-Application letter to Thames Water. -Application letter to EDF energy and response. -electricity meter photos. -Letter from Council tax confirming 3 separate

						properties for Council tax reasons. -Letter from British Gas confirming that they supply flats A, B & C.
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**Discussion**

Planning permission was obtained in 1985 (ref: 8401931) for a one bedroom flat on the first floor and a three bedroom maisonette at second and third floor levels. The applicant's evidence suggests that the second/third floor maisonette has been operating as two self-contained flats since 1999 (17 years).

The Council's Council Tax records show that the second and third floor has been registered as two separate flats for Council Tax since 1999.

The submitted evidence between 1999-2010 has been reviewed and is considered to be inconclusive. Some tenancy agreements and utility bills have been submitted for this period, but they do not show continuous use for both 298B and 298C.

However, the submitted evidence between 2011-2016 is considered to be sufficiently precise and unambiguous to demonstrate on the balance of probability that flats 298B and 298C have been operating as separate flats. There are separate tenancy agreements for flats B & C, utility bills for flat C and Council Tax have confirmed that the properties are registered and billed separately.

It is considered that the second and third floor flats have been operating as separate units for more than 4 years and the development is considered to be immune from enforcement action and therefore lawful in planning terms.

The submitted evidence demonstrates that flat B (second floor) and flat C (third floor) are lawfully used as 2 x 1 bed self-contained flats (Use Class C3) in accordance with section 191 of the Town and Country Planning Act 1990.

**Recommendation:** Lawful - Grant Certificate