

LDC Report		17/01/2017	
Officer		Application Number	
Samir Benmbarek		2016/7109/P	
Application Address		Recommendation	
1 Railey Mews London NW5 2PA		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Existing use of the whole building as C3 to include conversion of the internal garage into habitable space, creation of rear courtyard, repositioning of fire exit at ground floor level, insertion of rear window and repositioning of balustrade at first floor level and insertion of window to front elevation at ground floor level			
Assessment			
<p>The application site is located on the western side of Railey Mews.</p> <p>The building is located within the Kentish Town Conservation Area. It is not a Listed Building.</p> <p>The application seeks to demonstrate that No. 1 Railey Mews has been in use as a C3 unit including the conversion of the garage into habitable space as well as the creation of a rear courtyard, repositioning of rear fire exit door, insertion of a rear window and repositioning of balustrade at the first floor terrace and the insertion of front window at ground floor level for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that these changes have existed for a period of 4 or more years.</p> <p>Planning History</p> <p><u>8500730</u>- Full planning permission for the part rebuilding of existing light industrial building and change of use of part of first floor to residential use in conjunction with industrial use of ground floor Granted 30 July 1985</p> <p><u>9003431</u>- Full Planning Permission for the Change of use of ground floor from light industrial to residential use and associated alterations in connection with the provision of a single dwelling Granted 06 December 1990</p> <p>Applicant's Submission The applicant has submitted the following information in support of the application:</p>			

- 1x email exchanges between the applicant and Camden Council Planning Enforcement Team
- 4x aerial photography images
- 1x property inventory by Harewood Inventories dated 27 April 2008
- 1x property inventory by Harewood Inventories dated 04 August 2011
- 1x email exchange between agent and Chestertons estate agents including plans- November 2016
- 1x email exchange between applicant and Foxtons estate agents including plans dated July 2010

The applicant has also submitted the following plans:

- 1604/01- OS Extract (Location Map)
- 1604/02- Existing Front Elevation
- 1604/03- Existing Rear Elevation
- 1604/04- Existing Ground Floor Plan
- 1604/05- Existing First Floor Plan
- 7CT/702 - Existing Second Floor Plan
- 7CT/703 - Existing Third Floor Plan
- 7CT/704 – Existing Fourth Floor Plan

Council's Evidence

There is relevant planning history on the subject site relating to the change of use of the first floor and ground floor of the building. However, there is no application history in connection with the works detailed within this application.

Council tax has confirmed that the liability for Council Tax has been established since 17 January 2012 as one whole unit.

A site visit to the property was undertaken on 19 January 2017. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans.

The officer's site visit also corresponds to the Council's enforcement officer's site visit in 2011 where prior the garage was converted into a partially contained annex of the main dwelling. Another visit confirmed that the annex was altered into a habitable space within the dwelling and not a partially independent unit within the building.

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 is satisfied that the evidence submitted demonstrates that No. 1 Railey Mews has been in use as C3 use including the habitable space within the garage, front elevation alterations to include the installation of a front and insertion of rear window and for a period surpassing four years.

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', No. 1 Railey Mews has been in use as a C3 unit including the conversion of the garage into a habitable partially-contained space including the creation of a rear courtyard, repositioning of the rear fire exit door, insertion of rear window at first floor level and front window at ground floor level and repositioning of balustrade at first floor terrace and has been used in this manner 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: Approve