

LDC Report	24/03/2017	
Officer Ian Gracie	Application Number 2017/0862/P	
Application Address Belsize Fire Station 36 Lancaster Grove London NW3 4PB	Recommendation	
1st Signature	2nd Signature (if refusal)	
Proposal		
Use of building as 2 x self contained flats (Use Class C3)		
Assessment		
<p>The application site comprises a Grade II* listed former fire station which became vacant as part of the Fifth London Safety Plan cuts in January 2014. The building has an 'L' shape and is situated within a triangular site area of approximately 0.44 acres on the corner of Lancaster Grove and Eton Avenue approximately 0.5km directly south of Belsize Park London Underground Station. The building is significantly set back from the street with a large paved area to the north and east, soft landscaping comprising lawn and shrubs to the south, and an access path to the west. It is located within the Belsize Park Conservation Area.</p> <p>The surrounding area is of a predominantly residential character that features detached and semi-detached properties of three stories. Directly to the south of the site on the opposite side of Eton Avenue is the independent preparatory Sarum Hall School.</p> <p>The application seeks to demonstrate that a C3 use (2 self-contained studios) has existed on site 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 the existing C3 units have existed for a period of 4 or more years.</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 prepared by Mandip Sahota of Nicholas Taylor + Associated dated 13/02/2017; • Site Location Plan; • Existing Ground Floor Plan; 		

- Signed tenancy agreement dated 28th September 1979;
- Council Tax details of Flats 2 & 3 dated 19/01/2017;
- Rent Review letter dated 01/09/2009;
- Rent Review latter dated 28/08/2015;
- Council Tax bill for Flat 2 dated 11/03/2015;
- Council Tax bill for Flat 2 dated 11/03/2016;
- Letter from the VOA addressed to Mr Appleton dated 05/04/2005;
- Letter from The Pension Service dated 20/11/2016;
- Monthly account summary from Santander dated 11/07/2016;
- Letter from NHS Pension Scheme dated 2015;
- Letter from HM Revenue & Customs addressed to Mrs Appleton dated February 2014;
- Letter from the DVLA addressed to Nicholas Appleton (no date);
- Letter from British Gas addressed to Mr N Appleton dated 13/05/2009;
- Home insurance letter addressed to Mr Appleton dated 31/03/1995;
- Photographs.

Council's Evidence

Planning history – application site

LW9902107 – Restoration of yard area with new pavers, as shown on drawing numbers; 1/2 and 2/2. – **Granted 29th March 1999.**

LWX0103759 – Erection of a glazed canopy extension to the existing one on the second floor walkway of the north elevation. As shown on 3 unnumbered A3 sheets. – **Granted 23rd October 2001.**

2005/2114/L – Internal alterations to first floor flat at Belsize Fire Station. – **Granted 6th September 2005.**

2010/2709/L – Replacement of existing heating system, including boiler and associated controls and pipework, installation of new heater to appliance bay, and upgrading of electrical systems. – **Granted 13th July 2010.**

2011/0160/L – Creation of doorway in existing partition and erection of new partition to divide existing shower at first floor level. – **Granted 17th March 2011.**

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 planning history identified above would suggest that the two flats have been in use as self-contained residential units since 1979. The applicant has provided a signed tenancy agreement, dated 28th September 1979 which confirms this. The applicant has also submitted additional correspondence indicating residential activity at the premises in question. Whilst the supporting information is not considered conclusive enough on its own, the tenancy agreement suggests that, on the balance of probability, Flats 2 & 3 have been in residential use for over 4 years since the date of the submission of this application.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' Flats 2 & 3 within the Belsize Fire Station have been in use as 2 self-contained units (C3 use) 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