

LDC Report	01/09/2014
Officer	Application Number
Sam Watts	2014/2052/P
Application Address	Recommendation
61 Oakley Square London NW1 1NJ	Grant certificate of lawfulness.
1st Signature	2nd Signature (if refusal)
Proposal	
existing use of 13 flats at 61 Oakley Square	
Assessment	
<p>The application site is located on the west side of Oakley Square.</p> <p>The submitted plans relate to thirteen self-contained flats in number 61 Oakley Square.</p> <p>The building is grade II listed and is in the Camden Town Conservation Area.</p> <p>The application seeks to demonstrate that 61 Oakley Square has existed as thirteen self-contained flats 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 residential unit has existed for a period of 4 or more years.</p> <p>It was originally considered that the application could not be granted a certificate as the property is a listed building. An enforcement case was opened under reference number EN14/0479 and now affidavits have been provided to state the property has been in use as 13 flats since before the building was listed. The Council's internal system states that the building has been listed since 30/12/1999. There was another enforcement case opened in 2006 under reference number EN06/0811 as it was stated that an HMO had been converted into flats without permission. An investigation was undertaken and it was found that the flats had been in use for at least four years and so was immune from enforcement action.</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"> • 1 x Council Tax bill for flat A dated 13/06/2003 	

- 1 x heating bill for Flat 4 dated 21/11/2003
- 1 x electricity bill for basement flat c dated 24/11/2003
- 1 x Council tax bill for flat A dated 12/03/2004
- 1 x electricity bill for basement flat B dated 06/04/2004
- 1 x electricity bill for basement flat C dated 13/09/2004
- 1 x Council Tax letter from Camden Council dated 08/10/2004
- 1 x electricity bill for Flat A dated 11/10/2004
- 1 x electricity bill for Basement flat B dated 01/12/2004
- 1 x Council Tax letter for flat 1 dated 21/05/2005
- 1 x Council Tax bill for flat A dated 18/03/2005
- 1 x Council Tax bill for flat 1 dated 25/03/2005
- 1 x Council Tax Bill for flat B dated 25/03/2005
- 1 x Court Summons for flat 1 dated 18/05/2005
- 1 x electricity bill for basement flat dated 05/12/2005
- 1 x Council Tax Bill for Flat C dated 22/03/2006
- 1 x gas bill for ground floor flat 3 dated 10/04/2006
- 1 x court summons for flat C dated 14/06/2006
- 1 x electricity bill for 1st Floor Flat 6 dated 02/10/2006
- 1 x electricity bill for Ground Floor Flat 3 dated 02/10/2006
- 1 x TV License Letter for Flat F dated December 2006
- 1 x electricity bill for 61A Oakley Square dated 20/12/2006
- 1 x electricity bill for Basement Flat C dated 04/01/2007
- 1 x Broadway Furnishings Letter for Flat 3 dated 10/04/2007
- 1 x electricity bill for Basement Flat A dated 24/04/2007
- 1 x Broadway Furnishings Letter for Flat 5 dated 29/05/2007
- 1 x Broadway Furnishings Letter for Flat 9 dated 22/07/2007
- 1 x Council Tax Letter for Flat 1 dated 23/07/2007
- 1 x Council tax letter for flat C dated 12/09/2007
- 1 x electricity bill for Flat 6 dated 14/09/2007
- 1 x Council Tax Bill for flat 4 dated 18/09/2007
- 1 x Broadway Furnishings Letter for Flat 9 dated 20/09/2007
- 1 x TV License Letter for flat F dated October 2007
- 1 x Council tax Letter for Flat 3 dated 11/10/2007
- 1 x Council Tax Letter for flat 6 dated 11/10/2007
- 1 x Council Tax Letter for flat B dated 11/10/2007
- 1 x Council Tax Letter for Flat 1 dated 18/10/2007
- 1 x Council Tax Letter for Flat 1 dated 25/10/2007
- 1 x Electricity Bill for Basement Flat A dated 31/10/2007
- 1 x TV License for Flat F dated November 2007
- 1 x Electricity Bill for 2nd Floor, flat 7 dated 22/11/2007
- 1 x Council Tax Bill for flat 1 dated 29/11/2007
- 1 x TV License letter for Flat F dated December 2007
- 1 x Visual Homes Letter for 1-61 Oakley Square dated 15/12/2007
- 1 x Council Tax Letter for Flat 1 dated 19/12/2007
- 1 x TV License dated January 2008
- 1 x Electricity Bill dated 10/01/2008
- 1 x Gas Safety Record for Flats 1, 2, 3, 4, 5, 6, 7 and 8 dated 18/01/2008
- 1 x Court Summons for Flat 1 dated 27/02/2008.
- 1 x TV License for flat 5 dated March 2008.

- 1 x TV License for Flat F dated March 2008
- 1 x Council Tax Bill dated 14/03/2008
- 1 x Council Tax Bill dated 26/03/2008
- 1 x TV Licensing Letter for Flat 7 dated April 2008
- 1 x Council Tax Bill dated 19/06/2008
- 1 x Broadway Furnishings Letter dated 23/06/2008
- 1 x Thames Water Letter for Flat 1 dated 31/07/2008
- 1 x Electricity Bill for Basement Flat C dated 31/07/2008
- 1 x TV Licensing Letter for Flat 3 dated August 2008
- 1 x TV Licensing Letter for Flat F dated August 2008
- 1 x Thames Water Letter for Flat 1 dated 15/09/2008
- 1 x Electricity Bill for 2nd floor flat 8 dated 19/09/2008
- 1 x Council Tax Bill for flat 5 dated 03/10/2008
- 1 x Electricity Bill for flat 6 dated 23/10/2008
- 1 x Electricity Bill for Flat C dated 29/10/2008
- 1 x TV Licensing Letter dated November 2008
- 1 x Thames Water Letter for Flat 8 dated 17/11/2008
- 1 x Thames Water Letter for Flat A dated 18/11/2008
- 1 x Thames Water Letter for Flat B dated 18/11/2008
- 1 x Thames Water Letter for Flat 2 dated 18/11/2008
- 1 x Electricity Bill Letter for Ground Floor Flat 3 dated 17/12/2008
- 1 x Electricity Bill Letter for Flat 6 dated 23/12/2008
- 1 x Electricity Bill for Basement Flat C dated 14/01/2009
- 1 x Electricity Bill for First Floor Flat 4 dated 16/02/2009
- 1 x Council Tax Bill for Flat 4 dated 17/03/2009
- 1 x Electricity Bill for Flat 6 dated 25/03/2009
- 1 x TV Licensing Letter for Flat 8 dated May 2009
- 1 x Council Tax Letter for Flat A dated 15/06/2009
- 1 x TV Licensing Letter for Flat 3 dated July 2009
- 1 x Electricity Bill for 5 First Floor Flat dated 10th July 2009
- 1 x affidavit dated 03/07/2014 signed by Bujar Haxhija of 21 Barnfield, Upper Park Road, London, NW3 2UU stating the 13 flats have been in place and have remained unchanged since 1996.
- 1 x affidavit dated 09/05/2012 from H.Kamali (director of visual homes, the agents of the property) stating that the property has been in use as 13 flats and remained unaltered since February 1998.

There have also been documents submitted for the last five years which demonstrate there is enough information available to prove the property has been in use as 13 self-contained flats for at least 4 years. These include council tax records, gas and electricity bills, tenancy agreements and court summons.

The applicant has also submitted the following plans:

- A site location plan outlining the application site.
- Existing floor plans and elevations.

Council's Evidence

There is no relevant planning history or enforcement action on the subject site.

Council tax have confirmed that the liability for Council Tax started on 05.07.2004. It has been in payment continuously since then.

A site visit to the property was undertaken on the 12.08.2014. The officer was satisfied that the units had been occupied as thirteen flats for some time.

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 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