

LDC Report		19/05/2017	
Officer		Application Number	
Tony Young		2017/1707/P	
Application Address		Recommendation	
Flat Ground Floor 34 Gloucester Crescent London NW1 7DL		Grant Certificate of Lawfulness (Existing)	
1st Signature		2nd Signature (if refusal)	
Proposal			
Use as 2-bed maisonette (Class C3) over lower ground & ground floor levels.			
Assessment			
<p>The application site comprises a mid-terrace property arranged over 4 storeys with a lower ground floor, situated on the northern side of Gloucester Crescent, close to its junction with Oval Road to the west. This application relates to the lower ground and ground floors known as Flat Ground Floor.</p> <p>The building is Grade II listed and sits within the Primrose Hill conservation area.</p> <p>This application seeks to demonstrate that on the balance of probability the use as a 2-bed maisonette (Class C3) over lower ground & ground floor levels began more than four years before the date of this application such that its retention would not require planning permission.</p>			
Applicant's Evidence			
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Council Tax statements for period dated 31/07/2010 to 31/03/2017 confirming the Flat Ground Floor to have been in residential use since at least 31/07/2010; • Memorandum of Tenancy Agreements dated 10/05/2012 & 10/06/2014 confirming a continuous period of residential use for the lower ground maisonette between 31/07/2012 and 30/07/2016; • Addendum of Tenancy Agreement dated 07/06/2013 confirming that a residential tenancy agreement to be in place on that date; • Tenancy Agreement dated 31/07/2010 confirming a residential tenancy agreement to be in place for a period between 31/07/2010 and 30/07/2012; • Letter (ref. 220266) dated 03/06/2016 on behalf of the Landlord confirming the intention of a continued tenancy for 2 years from 31/07/2016; • Cover Letter (ref. 5257/3.1/oer) from Dry Architects & Interior Designers (agent) dated 24/03/2017 asserting that the lower ground & ground floor maisonette has been in 			

permanent residential use as a self-contained unit for a minimum of 4 years.

The applicant has also submitted the following plans:

- Site location and block plans numbered 5257-01 outlining the application site;
- Existing lower ground and ground floor plans numbered 5257-PL-03.

Council's Evidence

There is no relevant historic planning or enforcement records.

Valuation Office Agency (VOA) records indicate that council tax has been paid for Flat Ground Floor as a residential unit and Camden's Council Tax and Business Rates records indicate that council tax has been paid since at least 2010.

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 (Planning Practise Guidance para. 006), 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 documents provided and Council evidence demonstrate that the use as a 2-bed maisonette (Class C3) over lower ground & ground floor levels had begun since at least 2010 and has remained unaltered until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the use as a 2-bed maisonette (Class C3) over lower ground & ground floor levels began more than four years before the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve