

LDC Report	19/05/2017
Officer	Application Number
Tony Young	2017/1709/P
Application Address	Recommendation
Flat 1st Floor 34 Gloucester Crescent London NW1 7DL	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as 1-bed self-contained flat (Class C3) at 1st floor level.	
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 1st floor known as Flat 1st 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 1-bed self-contained flat (Class C3) at 1st floor level began more than four years before the date of this application such that its retention would not require planning permission.</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"> • Email from London Borough of Camden dated 24/03/2017 confirming Flat 1st Floor to have been on the council tax register since 01/04/1996; • Tenancy Agreements dated 03/12/2013 and 04/08/2014 confirming a residential tenancy agreement to be in place for the 1st floor for a period between 22/12/2013 and 26/08/2015; • Letters (ref. 221510) dated 09/07/2015 and 24/06/2016 on behalf of the Landlord confirming the intention of a continued tenancy for 1st Floor Flat for 2 years from 27/08/2015; • Cover Letter (ref. 5257/3.1/oer) from the Dry Architects & Interior Designers (agent) dated 24/03/2017 asserting that the 1st floor has been in permanent residential use as a self-contained unit for a minimum of 4 years. <p>The applicant has also submitted the following plans:</p>	

- Site location and block plans numbered 5257-01 outlining the application site;
- Existing 1st floor plan numbered 5257-PL-04.

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 1st Floor as a residential unit and Camden's Council Tax and Business Rates records indicate that council tax has been paid since at least 2012.

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 1-bed self-contained flat (Class C3) at 1st floor level had begun since at least 2012 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 1-bed self-contained flat (Class C3) at 1st floor level 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