

LDC Report	07/06/2017
Officer	Application Number
Tony Young	2017/2132/P
Application Address	Recommendation
Flat 5 30 South Villas London NW1 9BT	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as 1-bed self-contained flat (Class C3) at rear 2nd floor level.	
Assessment	
<p>The site is a mid-terraced property consisting of 3 storeys plus basement/lower ground floor located on the north-west side of South Villas. The property is sub-divided into a number of separate residential units. This application relates to the rear 2nd floor area (known as Flat 5).</p> <p>The building is not listed and sits within the Camden Square 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 rear 2nd 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"> • Letter from London Borough of Camden (Council Tax & Business Rates) dated 16/05/2017 confirming Flat 5 to have been on the council tax register since 24/06/2008 • Valuation Office Agency (VOA) extract document dated 09/04/2017 showing a council tax banding for a residential use at Flat 5 from 24/06/2008. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Unnumbered site and location plans identifying the application site; • Unnumbered existing 2nd floor plan (rear). <p>Council's Evidence</p> <p>There are relevant historic planning and enforcement records:</p>	

2014/7499/P (Top Floor) - Erection of dormers at front and rear elevations, in association with terrace at rear. Planning permission was granted dated 28/01/2015

2013/5427/P - Replacement of existing front and rear dormer windows, including creation of rear roof terrace to top floor residential flat (Class C3). Planning permission was granted dated 31/10/2013

2008/3033/P - Enlargement of the dormer windows on the front and rear roofslopes of the top floor residential flat (Class C3). Planning permission was granted dated 03/10/2008

9501537 - Change of use of the ground floor to a self-contained flat. Planning permission was granted dated 13/10/1995

9501538 - Application for certificate of lawfulness for an existing use as two self-contained flats on ground floor. Certificate of Lawfulness (existing) refused 01/12/1995 as existing use of the ground floor was not considered to have been used as described.

9100495 - Continued use of basement as a self-contained flat. Planning permission was granted dated 21/08/1991

9003412 - Continued use of first floor as a self-contained residential unit. Planning permission was granted dated 06/12/1990

8903010 - Change of use and works to conversion of conversion together with installation of a mezzanine at ground floor erection of a single storey rear extension at basement level with a roof terrace and a roof extension. Planning permission was granted dated 04/04/1989

8903009 - Change of use and works of conversion together with the installation of a mezzanine between ground floor and first floor erection of a single storey rear extension at basement level with a roof terrace and a roof extension. Planning permission was refused dated 04/04/1989 because of the loss of residential accommodation, the adverse effects of the roof extension, and the adverse impact on the needs and interests of existing tenants.

An enforcement case (EN06/0879) was raised on 25/10/2006 in response to a complaint that the property had been converted from bedsits to 3 flats. The complaint was investigated and no breach was found. The case was closed on 20/06/2007.

Camden's Council Tax and Business Rates records indicate that Flat 5 has been on the council tax register since 24/06/2008. Valuation Office Agency (VOA) records also show council tax banding details for residential use at Flat 5 since 2008.

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 rear 2nd floor level (known as Flat 5) had begun since at least 2008 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 rear 2nd 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