

CHRISTOPHER WICKHAM ASSOCIATES

Town Planning Consultancy

35 Highgate High Street,
London N6 5JT.

Your ref:

Our ref:

CWA/CMW/pl/1309

Date:

22nd May 2017

London Borough of Camden
Development Management
Camden Town Hall Extension
Argyle Street
London WC1H 8EQ.

VIA THE PLANNING PORTAL ONLY

Dear Sir or Madam,

**TOWN AND COUNTRY PLANNING ACT 1990
SITE AT 29 ESTELLE ROAD, LONDON NW3 2JX
LAWFUL DEVELOPMENT CERTIFICATE APPLICATION - EXISTING USE
PLANNING PORTAL REFERENCE: PP-05836438**

I refer to the above site, and to the application for a Lawful Development Certificate (LDC) in respect of the existing use of the property as a single dwelling (Use Class C3).

In addition to the application form and this covering letter, the application comprises the following documentation:-

- An existing layout drawing nos. 110, 111, 112, 113 & 114;
- A site location plan on which the application site is outlined in red;
- A statutory declaration, including Exhibit "G11", by the applicant, Mr Gabriel Irwin;
- A statutory declaration, including Exhibit "NN1", by Mr Nicholas Norden; and
- A statutory declaration by Ms Melanie Davis.

The application fee of £385 is being forwarded by post.

In assessing this application, I would ask you to have regard to the following:-

Site Context

The application site is located on the west side of Estelle Road, and is occupied by a mid-terrace, Victorian property which includes accommodation over four floors. The house is in use as a single dwelling occupied by the applicant and his family. The site falls within the Mansfield Conservation Area.

Planning history

Planning permission was granted on 25th January 1974 under reference CTP/E9/10/14/18159 for *'the self-containment of the three existing flats and the erection of an extension on ground and first floor levels to the existing rear extension and provision of new windows'*.

Planning permission was granted on 29th November 2010 under reference 2010/5321/P for the *'change of use from three to two self-contained maisonettes, erection of single-storey infill extension at rear ground floor level; formation of roof terrace at second floor level; erection of dormer window to rear roof slope, installation of rooflights at front roof slope and alterations to fenestration at rear to self-contained flats (Class C3)'*.

Planning permission was refused at appeal on 23rd August 2011 (LPA ref: 2010/6877/P) for the *'change of use from three to two self-contained maisonettes, erection of single-storey infill extension at rear ground floor level, second floor rear extension; formation of roof terrace at second floor level; erection of dormer window to rear roof slope, installation of rooflights at front roof slope and alterations to fenestration at rear'*.

Planning permission was granted on 23rd April 2012 under reference 2012/1569/P for the *'erection of front boundary wall and piers at ground level to residential dwellings (Class C3)'*.

The existing use for which the LDC is sought

The LDC is sought in respect of the use of the premises as a single dwelling (Use Class C3).

The LDC is sought under s.171B(2) of the 1990 Act (as amended), namely that the application property has been in continuous use as a single dwelling for more than 4 years ending with the date of this application.

Supporting evidence

Evidence in support of the LDC is submitted in the form of three statutory declarations, and other documentation.

The statutory declaration of Mr Gabriel Irwin

Mr Irwin explains that he and his wife purchased the property in September 2010. At that time, the building comprised three self-contained flats.

Following the grant of planning permission for the conversion of the property to two maisonettes with associated extensions, all internal partitions and fittings associated with the property's previous use as three self-contained flats were removed.

The property was extended and altered externally in line with the planning permission, and the internal layout was adjusted to include a second stair case. However, only one fully functioning kitchen was installed, and no internal front doors were provided. Mr Irwin states that the property has only been occupied by him and his family, and has never been used as two dwellings.

Mr Irwin explains that during the second half of 2012, a new internal door was inserted between the first floor front bedroom and the original staircase. At the same time, cladding to the balustrading of the original staircase was removed.

The statutory declaration of Mr Nicholas Norden

Mr Norden managed the building project on behalf of Mr and Mrs Irwin, and he obtained Building Regulations approval for the extension and alteration of the property. He confirms the dates of commencement and completion of the works, which included the installation of a second staircase, and explains that it was always the intention of his clients that the property would be used as a single family dwelling. The approved self-contained flats were not created in that no internal front doors were installed, and only one kitchen was installed in the property.

Since the works were completed in 2012, Mr Norden has made further occasional visits to the property, and confirms that the layout of the property has remained unchanged save for the insertion of an additional door

The statutory declaration of Ms Melanie Davis

Ms Davis is a retired Councillor and a Justice of the Peace. She is a school friend of Mr and Mrs Irwin, and has visited and stayed at the application property on various occasions since October 2011. Ms Davis confirms that during the period of her knowledge of the property, it has always been used by the Irwins as their family home.

Other evidence

In addition to the statutory declarations, other evidence of the use of the application property as a single dwelling is found in earlier planning application documentation.

With regard to the applicant's intentions in 2011 for the future use of the property as a single dwelling for his family, it is noted that in the 'Summary of consultation responses' section in the officer's report on application 2010/6877/P, it is stated that the occupier of the ground floor flat at 31 Estelle Road has objected on various grounds including that *'the proposal states the formation of two maisonettes whilst the applicant states in writing that the property is to be used as a family unit'*. The objector's letter states that he has it *'in writing that the new owner of no.29 plans to move in with just his family and make use of the property as one dwelling....'*. This letter was received by the Council on 31st January 2011.

By April 2012, it is evident that planning officers had noted the use of the property as a single dwelling because the 'Site Description' section of the officer's report on application 2012/1569/P (for a new front boundary wall) states that *'the building is a single dwelling'*.

The above evidence forms part of the Council's planning history records for the application property.

The property has two separate Council Tax listings but this does not provide conclusive evidence of actual use in planning terms. This listing position arose from an

inspection of the property by a Valuation Officer in September 2011 when the building works, including the formation of the second internal staircase, were substantially complete.

Conclusion

Having regard to the sworn evidence, which is entirely consistent and corroborative in all material respects, it is clear that the applicant constructed the extension works and other external alterations permitted under planning consent 2010/5321/P. He also installed a second stair case in line with the approved planning drawings, and modified the internal layout of the building in a manner which was broadly consistent with the planning approval.

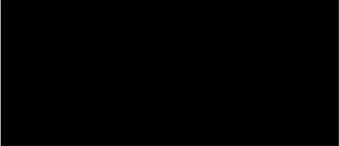
However, it is evident that the two self-contained maisonettes permitted by consent 2010/5321/P were never formed in that the internal front doors to these approved units were never fitted, and the property has never had more than one fully functioning kitchen since the works pursuant to this consent were undertaken. The approved Building Regulations drawings confirm the absence of internal front doors.

Furthermore, by the end of 2012, a new door to the first floor front room had been formed so that there was unrestricted access between all rooms on the first floor without having to use the second staircase. The formation of this new internal door, which took place over 4 years ago, is however not pivotal to this LDC application because, even prior to the formation of the door, the property was not sub-divided.

In addition, occupation of the property since its acquisition by the applicant has always been as a family dwelling which has been home to him and his wife, as well as his four children (other than when they were away at university etc.). By adopting the general layout approved under planning consent 2010/5321/P including the installation of a second stair case, the applicant sought to provide a limited semblance of internal separation so that his grown-up children could have a degree of privacy in their use of the property. However, the property has always functioned a single family dwelling since first occupation by the applicant in 2011.

In light of this evidence, it is clear that the application property has been in use as a single dwelling for more than 4 years ending with the date of the application, and that such use is therefore lawful.

I look forward to the early and favourable determination of the application. In the meantime, if the case officer requires any further information or needs to arrange a site inspection, please do not hesitate to contact me.



CHRISTOPHER M. WICKHAM