

LDC Report	12/07/2017
Officer	Application Number
Samir Benmbarek	2017/3597/P
Application Address	Recommendation
191 King's Cross Road London WC1X 9DB	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use of basement, first and second floor levels as residential units (3x studio flats) (Class C3)	
Assessment	
<p>No. 191 Kings Cross Road is located on the western side of King's Cross Road. The building is located within the King's Cross St. Pancras Conservation Area. It is not a Listed Building.</p> <p>The application seeks to demonstrate that the basement, first and second floors of No. 191 King's Cross Road have been in use a 3x self-contained studio 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 the balance of probability, that the 3x existing self-contained flats have existed for a period of 4 or more years.</p> <p>Planning History</p> <p>No planning application history.</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"> • Tenancy Agreement dated 01 July 2011 (Basement Flat) • Tenancy Agreement dated 22 May 2014 (Flat 2) • Tenancy Agreement dated 24 April 2016 (Flat 1) • Letter from Camden Council Council Tax Department dated 06 June 2017 • Letter from Thames Water dated 07 June 2017 • Letter from Peter Harvey dated 20 June 2017 • Letter from Marina Harvey dated 20 June 2017 • Letter from Nevid Sedighi dated 15 June 2017 • Email from EDF Energy dated 20 July 2017 	

The following plans were also submitted with the application:

- 01a Site location plan
- 01 Existing basement and ground floor plan
- 02 Existing first and second floor plan

Council's Evidence

There is no relevant planning history on the subject site which demonstrates the use of basement, first and second floors of No. 191 King's Cross Road as 3x self-contained studio flats. Overall, there is no planning history on the subject site.

Flat 1

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 1 since 13 March 1995.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant had submitted the following documents in relation to Flat 1:

- Tenancy Agreement dated 24 April 2016 (Flat 1)
- Letter from Thames Water dated 07 June 2017
- Letter from Camden Council Council Tax Department dated 06 June 2017
- Letter from Peter Harvey dated 20 June 2017
- Letter from Marina Harvey dated 20 June 2017

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 1 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 2

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 2 since 13 March 1995.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat was in residential use (C3) and the layout of the property correctly corresponds to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 2:

- Tenancy Agreement dated 22 May 2014 (Flat 2)
- Letter from Camden Council Council Tax Department dated 06 June 2017
- Letter from Thames Water dated 07 June 2017

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 2 has been in continuous use for a period surpassing 4 years and therefore and the Council has no

evidence to contradict this.

Basement Flat

There is no Council Tax liability established for this property. The Council's Council Tax Team have been notified about this property.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to the Basement Flat:

- Tenancy Agreement dated 01 July 2011 (Basement Flat)
- Letter from Nevid Sedighi dated 15 June 2017
- Email from EDF Energy dated 20 July 2017

The evidence submitted and site visit demonstrates that on the balance of probability, the Basement Flat has been in continuous use for a period surpassing 4 years and the Council has no evidence to contradict this.

Assessment and Context

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.

No. 191 King's Cross Road is a three-storey building with an A1 (retail) unit at ground floor level and a self-contained studio flat at basement level, first floor and second floor level. This was observed on the site visit with separate intercoms and post-boxes as well as each individual front door having its own lock. Each self-contained studio flat has its own kitchen and bathroom and there are no shared facilities present at site apart from the main staircase to access each floor.

The applicant/agent is seeking clarification of the authorised use the building as there is no planning applications made on the site.

The Council is satisfied that the evidence submitted demonstrates that the basement, first and second floors at No. 191 King's Cross Road have been in use as 3x self-contained studio flats for a period surpassing four years. The evidence includes tenancy agreements with the earliest dating from July 2011 and the most recent dating from June 2017. Council Tax records (as discussed above) further confirm the use of two of the three the units. Therefore, it can be demonstrated that the layout and residential situation of the applicant building has been in its existing situation for a continuous period of more than 4 years on the 'balance of probability' in

respect of the satisfaction of the evidence submitted and subsequent site visit to the building.

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 basement, first and second floor levels at No. 191 King's Cross Road has been in use as a 3x self-contained flats and has been used in this manner 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