

LDC Report	17/11/2017
Officer	Application Number
Tony Young	2017/5055/P
Application Address	Recommendation
52 Chalk Farm Road LONDON NW1 8AN	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use as 1-bed residential flat at 1st floor level (Class C3).	
Assessment	
<p>The site is a mid-terraced 4-storey building located on the north side of Chalk Farm Road. The property has a commercial unit occupying the ground floor with the upper floors sub-divided into a number of separate units likely to be in residential use. This application relates to one of the self-contained units at 1st floor level (known as Flat A) which has an existing flat roof rear extension with terrace above and raised patio below.</p> <p>The building is not listed and does not sit within a conservation area.</p> <p>This application seeks to demonstrate that on the balance of probability the use as a 1-bed residential flat 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"> • Council Tax details (from DirectGov web page) dated 03/09/2017 provided in support of the assertion that the 1st floor flat (Flat A) has been in existence as a separate residential units since at least 2003 and has remained in continuous use as such until the present time; • Email from GSC Solicitors LLP to Lucy Halperin (Landlord and Applicant) dated 10/08/2017 expressing the view that the property has been used as a residential flat since at least 2003; • Two Assured Tenancy Agreements between Rachel Simpson (Tenant) and Lucy Halperin (Landlord and Applicant); and between Michelle McGuigan (Tenant) and Lucy Halperin (Landlord and Applicant); dated 26/11/2016 and 30/02/2017 respectively provided in support of the assertion that Flat A had been in existence as a separate residential unit since at least November 2016. <p>The applicant has also submitted the following plans:</p>	

- Unnumbered site location plan identifying the application site;
- Unnumbered (part) 1st floor plan showing the flat layout and terrace area.

Council's Evidence

The relevant historic planning records are as follows:

PEX0300216 - Retention of reconstructed rear extension with roof terrace above and raised patio area below. Planning permission granted on 16/05/2003. The submitted drawings include an existing 1st floor plan (ref. CFR/01) dated February 2003 showing the floor in residential use as a self-contained flat.

2003/1224/P - Approval of details of a screen around the eastern boundary of the roof terrace, pursuant to condition 1 of planning permission dated 12/06/03 (Reg. No. PEX0300216). Approval of details granted 31/10/2003. The submitted drawings include an approved 1st floor plan (ref. CFR/02 rev A) dated February 2003 showing the floor in residential use as a self-contained flat.

Valuation Office Agency (VOA) records show council tax banding details for residential use at 1st floor level (Flat A) since 14/03/2003.

Site visit

A site visit to the property was undertaken on 26/09/2017. The officer was satisfied that the 1st floor unit (Flat A) had been occupied for residential use for some time.

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 residential flat at 1st floor level had begun since at least 2003 and appears to have remained as such 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 residential flat 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

