

LDC Report		15/11/2017
Officer		Application Number
Oluwaseyi Enirayetan		2017/5241/P
Application Address		Recommendation
20 Belsize Square LONDON NW3 4HT		Grant Certificate of Lawfulness (Existing)
1st Signature		2nd Signature (if refusal)
Proposal		
Use of property as 2 self-contained flats at lower ground and ground floor levels (Flat A) and first and second floor levels (Flat B)		
Assessment		
<p>The application site is located on the southern side of Belsize Square. The building on the site is a large three storey with basement semi detached villa. It forms part of a pair with no. 19 Belsize Square.</p> <p>The application relates to flats A and B over lower and ground floor levels (Flat A) and first and second floor levels (Flat B) and seeks to demonstrate that on the balance of probability the use as 2 self-contained flats began more than four years before the date of this application such that their retention would not require planning permission.</p> <p>The building is not listed but is located in the Belsize Conservation Area.</p> <p>The submitted documents include Assured Shorthold Tenancies Agreements, Floor plans layout from letting particulars; Council Tax band details (Directgov; Service provided by VOA), and Site location plan.</p> <p>Applicant's Evidence</p> <p>Flats A Assured Shorthold Tenancy dated 12 March 2012 Assured Shorthold Tenancy dated 24 May 2013 Assured Shorthold Tenancy dated 13 October 2014 Assured Shorthold Tenancy dated 01 June 2016 Assured Shorthold Tenancy dated 29 September 2017 Council Tax band details (Directgov; Service provided by VOA) Foxton letting particulars including unnumbered floor plans Site location plan ref: 8126 SLP</p>		

Flats B

Assured Shorthold Tenancy dated 01 February 2012

Assured Shorthold Tenancy dated 13 October 2013

Assured Shorthold Tenancy dated 15 July 2014

Assured Shorthold Tenancy dated 2 February 2016

Assured Shorthold Tenancy dated 27 January 2017

Council Tax band details (Directgov; Service provided by VOA)

Foxton letting particulars including unnumbered floor plans

Site location plan ref: 8126 SLP

Council's Evidence

There is no relevant planning history or enforcement action on the subject site.

Camden's Council tax have confirmed that Council Tax has been paid for Flats A and Flats B at No. 20 Belsize Square for at least the last 4 years.

A site visit to the property was undertaken on the 12th October 2017. The officer was satisfied that the 2 units as referred to above 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 (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.

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' both units have existed in residential use 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