

LDC Report	17/11/2017
Officer	Application Number
Matthias Gentet	2017/3643/P
Application Address	Recommendation
6 Inglewood Road LONDON NW6 1QZ	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use of building as 5no self-contained residential units (Use Class C3).	
Assessment	
<p>The site address is a 2-storey plus mansard terrace property located on the north side of Inglewood Road, some 100yards from the junction with West End Lane to the east. The property is sub-divided into 5 self-contained residential flats as follow:</p> <ul style="list-style-type: none"> - A studio and a 1-bed self-contained flat at ground floor level; - Two self-contained studios at second floor level; - A 1-bed self-contained flat at second floor level. <p>The building is in West End Green Conservation Area. Although it is not listed, the property is designated to be a positive contributor in the West End Green Conservation Area Appraisal.</p> <p>The application seeks to demonstrate that on the balance of probability, the use of all 5 self-contained residential units (1 x studio and 1 x 1-bed flat at ground floor level, 2 x studios at first floor level, and 1 x studio and 1 x 1-bed flat at second floor level) began more than four years before the date of this application such that its retention would not require planning permission.</p>	
Applicant's Evidence	
<p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • A 'Statement of Fact' dated 3rd November 2017 testifying to the continuous use of all 5no units for more than 4 years; • Council Tax Records from Directgov; • Declaration/sworn statement from Harry Disley (Angloflats Ltd) dated 14th June 2016. <p>The applicant has also submitted the following plans:</p>	

- A site location plan outlining the application site;
- Floor plans (Revised 29/06/2017).

Council's Evidence

There are relevant planning history or enforcement action on the subject site, as follow:

Planning:

- 2004/5250/P - (refused with warning of enforcement action on 31/01/2005) - The erection of a raised planter with retaining wall in the rear part of the rear garden.
- PWX0103253 – (granted on 07/08/2001) - Erection of a single storey rear extension at ground floor level to accommodate 2 enlarged bedrooms.

Enforcement:

- EN04/0915 - Patio raised 6ft from original ground level soil from rear extension foundations built up + breeze blocks used to create high patio – Case closed on 26/05/2005.

Council tax records have indicated that the 5no residential units have been on the Council Tax register since April 1993. Proof of this has also been provided by the applicant.

A site visit to the property was undertaken on the 1st August 2017. The officer was satisfied that all 5 units had been occupied for residential use for some time with the layout as indicated on the submitted floor plans. One of the tenants was present at the time of the site visit.

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 documents provided and Council evidence demonstrate that the use as 1 x studio and 1 x 1-bed flat at ground floor level, 2 x studios at first floor level, and 1 x studio and 1 x 1-bed flat at second floor level had begun since at least 2002 and has remained unaltered until the present time.

The information provided by the applicant is deemed to be sufficiently precise to demonstrate that ‘on the balance of probability’ the 5no residential units occupying the ground, first and second floor levels 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