

LDC Report	01/05/2018
Officer	Application Number
Jaspreet Chana	2018/0849/P
Application Address	Recommendation
337 Finchley Road London NW3 6EP	Grant
1st Signature	2nd Signature (if refusal)
Proposal	
Use of the building as 4 x 2 bed and 4 x 1 bed self-contained flats (Class C3)	
Assessment	
<p>The application site is located on the west side of Finchley Road. The application relates to a three-storey semi-detached brick property. The building is not listed and nor is it located within a Conservation Area.</p> <p>The application seeks to demonstrate that 8 flats (4 x 2 bed and 4 x 1 bed) have existed at 337 Finchley Road for a period of 4 years or more such that the continued use 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 bill letter was provided for Flat 1 date of issue 17/01/18 • Council tax bill letter was provided for Flat 2 date of issue 17/01/18 • Council tax bill letter was provided for Flat 3 date of issue 17/01/18 • Council tax bill letter was provided for Flat 4 date of issue 07/02/18 • Council tax bill letter was provided for Flat 5 date of issue 07/02/18 • Council tax bill letter was provided for Flat 6 date of issue 17/01/18 • Council tax bill letter was provided for Flat 7 date of issue 17/01/18 • Council tax bill letter was provided for Flat 8 date of issue 07/02/18 • TV Licence bill letter addressed to Flats 1-8 dated August 2014. • Deposit protection certificates were received from between 2009-2013 for flats 1-8, received 14/12/17. • Tenancy agreement of Flat 5 dated September 2013. • E-mail from council tax officer from the council dated 17/01/18. • E-mail from mydeposits dated 14/12/17. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • OS map; 	

- Floor plans RK/TP/01.

Council's Evidence

Planning history:

2010/2234/P – Change of use from existing 9 bed HMO (Sui Generis) to eight one bedroom flats (Class C3) and associated (retrospective) replacement of an existing basement window with timber door – Withdrawn – 09/02/11.

2011/2446/P - Change of use from 12-person hostel with a 1-bedroom wardens flat (Sui Generis) to 4 x 1-bedroom and 2 x 3-bedroom self-contained flats (Class C3), installation of PV solar panels to roof pitch on rear and side elevations – Granted – 16/12/11.

EN09/0966 - Change of use of HMO property into flats – Withdrawn – 26/09/17.

EN14/0046 - Change of use from 6 to 8 flats and possible breach of condition (2011/2446/P) for lifetime homes – Withdrawn - 26/09/2017.

The Council Tax confirms:

Flats 1-8 have been registered for Council Tax, effective since 2010. Flat 1, 3, 5, 7 have a council tax band of C and flats 2, 4, 6 and 8 have a council tax band of D.

It has also been confirmed by the Council's Council tax department that 337 Finchley Road is registered as 8 flats.

A site visit to the property was undertaken on the 19/04/2018. The officer was satisfied that the unit had been occupied for residential use for some time. The property was partly vacant.

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 sufficiently demonstrate that 'on the balance of probability' the building has existed as 8 self-contained residential flats for a period of more than 4 years as required under the Act. Furthermore, the applicant's evidence, namely the submitted Council Tax Records is sufficiently precise and unambiguous to justify the grant of a certificate.

Recommendation: Approve