

LDC Report	21/06/2018
Officer	Application Number
Matthias Gentet	2018/1480/P
Application Address	Recommendation
10 Gayton Crescent London NW3 1TT	
1st Signature	2nd Signature (if refusal)
Proposal	
Use of the property as a single dwellinghouse, replacement of the entrance door with a window and erection of a single storey rear extension.	
Assessment	
<p>The site address is a 2-storey detached Victorian property with mansard roof located on the northern side of Gayton Crescent – on the bend - with Gayton Road to the west and Willow Road. It is set back and secluded from the road by means of a large front garden accessed by gate constituting the front boundary treatment. The property was originally stables, and was subdivided into 2no residential flats in 1960s and subsequently converted back to a single dwelling in 1990s with the following layout:</p> <ul style="list-style-type: none"> - Ground Floor: Reception Room, Kitchen/Dining Room, Utility Room, Entrance Hall and WC; - First Floor: 1no Bedroom with ensuite Bathroom, 1no Double Bedroom & 1no Single Bedroom and a separate Bathroom; - Second Floor (roof mansard): 1no Bedroom with ensuite Bathroom and 1no Bedroom/Study. <p>The building is not listed but is located in Hampstead Conservation Area.</p> <p>The application seeks to demonstrate that on balance of probability, the use of the property as a single dwelling began more than four years before the date of this application and that the alterations to the original main entrance on the front elevation from a door to a window and the erection of the single storey rear extension have taken place more than four years before the date of this application such that their 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"> • Decision Notice dated 24th May 1960 for application reference: TP2992/28604 granting 	

- planning permission for the conversion of the property into 2no self-contained flats;
- Signed affidavit from Mr and Mrs Lance Blackstone owner of the property since February 2006 and dated 22nd March 2018;
- Valuation Report for the Bank of Scotland dated 22nd December 2005;
- Tenancy agreement for a period of 2 years dated 28th May 2005 starting 29th May 2005 and ending on 28th May 2007;
- Tenancy agreements for a period of 4 years dated 9th October 2007 starting on 9th October 2007 to 8th October 2008, from 9th October 2008 to 8th October 2009, 9th October 2009 to 8th October 2010, and from 9th October 2010 to 8th October 2011;
- Tenancy agreements for a period of 6 years starting on 21st January 2011 to 20th January 2012, from 21st January 2012 to 20th January 2013, from 21st January 2013 to 20th January 2014, 21st January 2014 to 20th January 2015, 21st January 2015 to 20th January 2016, 21st November 2016 to 20th November 2017;
- Council Tax Valuation List (last updated 18/03/2018);
- Cover Letter (dated 23rd March 2018).

The applicant has also submitted the following plans:

- Ground, First and Second Floor plans reference: S-100 (dated November 2002);
- Proposed Floor Plans reference: 852/P/1 (dated June 1995) for applications reference: 9560178 & 9501523;
- Proposed Elevations Drawing reference: 852/P/2 (dated June 1995) for applications reference: 9560178 & 9501523;
- Proposed Floor Plans including Site Location Plan reference: 852/P/3 (dated August 1995) for applications reference: 9560178 & 9501523
- Proposed Elevations Drawing reference: 852/P/4 (dated August 1995) for applications reference: 9560178 & 9501523.

Council's Evidence

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

- **TP2992/28604** – (granted on 24/05/1960) - Conversion of 10 Gayton Crescent into two self-contained units;
- **4400/823** – (granted on 20/06/1963) - The erection of a timber conservatory at the rear of 10 Gayton Crescent;
- **9501523** (Planning Permission) & **9560178** (Conservation Area Consent) - (refused on 19/01/1996) - Erection of new rear staircase and extension at ground floor level;

Council Tax records have indicated that the property was previously registered as ground and 1st floor despite that fact that the second floor was already used as habitable space prior to the deletion of the record on 01/04/1993. It is now registered at ground, 1st and 2nd floor but the date is not confirmed on the website:

MAIS GND & 1ST FLRS 10, GAYTON CRESCENT, LONDON, NW3 1TT	Deleted		0017100101002B
MAIS GND 1ST & 2ND FLRS 10, GAYTON CRESCENT, LONDON, NW3 1TT	G		5030473

A site visit to the property was undertaken on 3rd May 2018. The officer was satisfied that all 3no

floors are for the occupation of the property solely as a single dwelling house with only one entrance at ground floor level on the east elevation following the replacement of the original north facing entrance door with a window. The applicant has demonstrated that this alteration had taken place prior to the purchase of the property as shown on a photograph of the north façade of the property within the Valuation Report dated 22nd December 2005. The details of the single storey rear extension are clearly visible on the 2002 floor plans, which therefore support its erection prior to 2002.

The tenancy agreements support the use of the property as a single dwelling that has been rented as such since 29th May 2005 until 20th November 2017 – although there is a period of 10 months between 21st January 2016 and 20th November 2016 where the property doesn't appear to have been let. The house was vacant on the date 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 of the property as a single dwelling house has begun since at least May 2005 and has remained unaltered until the present time. The alterations to the original north facing entrance door - changed to a window – and the erection of the single storey rear extension have taken place prior to the purchase of the property in 2006.

The information provided by the applicant is deemed to be sufficiently precise to demonstrate that 'on the balance of probability' the single dwelling property occupying a ground, first and second floor level has existed and used as a single dwelling 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

