

LDC Report	13/09/2018
Officer	Application Number
Gideon Whittingham	2018/3460/P
Application Address	Recommendation
30 & 30A Denning Road London NW3 1SU	
1st Signature	2nd Signature (if refusal)
Proposal	
Use of building as 2 self-contained residential units (within Use Class C3)	
Site Description	
<p>The subject site is located on the southern side of Denning Road, and comprises a mid-row 4-storey terraced dwellinghouse.</p> <p>The building is not listed but is located within the Hampstead Conservation Area and is considered to make a positive contribution.</p> <p>The application seeks to demonstrate that 2 flats have existed at 30 & 30A Denning 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"> • Location Plan; • Property Register for 30 Denning Road (appendix 1); • Floor plan dated 9th February 2018 (appendix 2); • Council Tax Notice of alteration to an entry in the valuation list, dated 4th August 2008: House excluding LGND FLR, 30 Denning Road effective from 12th April 2008 (appendix 3); • Council Tax Annual Charge: 30 Denning Road period -1.04.2008 to 31.03.2009 – dated 14th March 2008 (appendix 4); • Council Tax Annual Charge: 30 Denning Road period 12.04.2008 to 31.03.2009 – 30th October 2008 (appendix 4); • Council Tax Annual Charge: 30 Denning Road period 01.04.2009 to 31.03.2010 – dated 17th March 2009 (appendix 4); • Council Tax Annual Charge: 30 Denning Road period 01.04.2010 to 31.03.2011 – dated 17th March 2010 (appendix 4); 	

- Council Tax Annual Charge: 30 Denning Road period 01.04.2011 to 31.03.2012 – dated 17th March 2011 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2012 to 31.03.2013 – dated 17th March 2012 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2013 to 31.03.2014 – dated 22nd March 2013 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2014 to 31.03.2015 – dated 21st March 2014 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2015 to 31.03.2016 – dated 13th March 2015 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2016 to 31.03.2017 – dated 11th March 2016 (appendix 4);
- Council Tax Annual Charge: 30 Denning Road period 01.04.2017 to 31.03.2018 – dated 20th March 2017 (appendix 4);
- Council Tax Annual Charge: Basement Flat 30 Denning Road period 12.12.2011 to 15.12.2011 – dated 10th December 2011 (appendix 5);
- Council Tax Annual Charge: Basement Flat 30 Denning Road period 01.04.2017 to 13.11.2017 – dated 30th December 2017 (appendix 5);
- Council Tax Annual Charge: Basement Flat 30 Denning Road period 20.04.2017 to 31.03.2018 – dated 6th April 2018 (appendix 5);
- Letter from Roger Bullworthy Associates dated 27th June 2018.

Council's Evidence

Relevant Planning History:

- E7/14/2/391 - Construction of a new dormer window at 30, Denning Road, Camden, at third floor level. Granted 23/06/1965

The Council Tax valuation: Registered for Council Tax as two units, effective since 16/02/2018.

A site visit to the property was undertaken on the 1st August 2018. The officer was satisfied that the building was configured as 2 self-contained units.

Assessment

The statutory framework covering “lawfulness” for lawful development certificates is set out in section 191(2) of the Town and Country Planning Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

Section 171B of the Town and Country Planning Act 1990 states that development becomes immune from enforcement if no action is taken within 4 years for an unauthorised change of use to a single dwellinghouse.

National Planning Practice Guidance states that a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is lawful. The relevant legal test to consider when evaluating the evidence 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.

Overall, the arrangement of the site and tenancy agreements provide strong evidence that the

property has been used as 2 self-contained flats since at least 2011. Although some weight is given to the contradictory evidence namely the council tax bills this would not necessarily indicate a sole self-contained use.

The submitted evidence demonstrates on the balance of probability that the property has been operating as 2 self-contained flats for more than 4 years and is therefore immune from enforcement in accordance with section 191 of the Town and Country Planning Act 1990.

Recommendation: Approve