

LDC Report	13/02/2019
Officer Alyce Keen	Application Number 2018/5299/P
Application Address 45 Rochester Road London NW1 9JJ	Recommendation Grant Certificate (Existing)
1st Signature	2nd Signature (if refusal)
Proposal Use of building as 3 x residential flats (1 x 3 bed & 2 x 2 bed) (Use Class C3).	
Assessment <p>The application site is located on the northern side of Rochester Road. The application relates to a three-storey semi-detached property. The building is not listed and is located in the Rochester Conservation Area.</p> <p>The application seeks to demonstrate that the three residential units have existed for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 or more years.</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"> • Tenancy agreements for Flat A, B and C for the period 2011-13, 2013-14, 2014-15. • Letter to Thames Water dated 01/07/2010. • BT Bill dated 1992. • Council Tax Bill dated 17/03/2011 • Gas Safety Records dated 01/02/2011. • Electricity Bill dated 1992. • Garland Electronics Ltd Invoice dated 21/03/2013. • Domestic Electrical Installation Periodic Inspection Report dated 26/11/2010. • Gas Certification documents dated 2012. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site • Existing & Proposed Floor Plans: 49A3 GA1.1; 49A3 GA1.3; 49A3 GA2.1; 49A3 GA2.2; 49A3 GA2.3. 	

Council's Evidence

An application (9200617) for the erection of a garage at the rear was refused in 1992. The decision was appealed and dismissed by the Inspector in 1993. The appeal decision referenced the house being converted into flats.

Council tax have confirmed that the liability for Council Tax for Flat A started in 2006, Flat B 2010 and Flat C 2001. It has been in payment continuously since then.

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' the three residential units have existed 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