

LDC Report		05/04/2019
Officer		Application Number
Alyce Keen		2019/0772/P
Application Address		Recommendation
Flat B 20 York Mews London NW5 2UJ		Grant Lawful Development Certificate
1st Signature		2nd Signature (if refusal)
Proposal		
Use of the building as a residential unit (Use Class C3).		
Assessment		
<p>The application site is located at Flat B, 20 York Mews which is situated to the rear of 335 Kentish Town Road and fronts the Mews.</p> <p>The application relates to a single residential unit.</p> <p>The building is not listed or located in a Conservation Area.</p> <p>The application seeks to demonstrate that the residential unit has existed at Flat B, 20 York Mews 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 dated 05/10/2018; 29/09/2017; 21/10/2016; 07/09/2015; 01/11/2014; 30/09/2013; 23/04/2012; 04/10/2010; 21/09/2009 for 52 weeks • Tenant Housing Benefit Notification from Camden Council dated 06/12/2016; 05/03/2017; 04/03/2018; 24/10/2018. • Council Tax Invoices for financial year 2009/10; 2010/11; 2012/13; 2013/14; 2016/17. • Thames Water Bill dated 15/09/2016. • Statutory Declaration from Ashwin Shah and Anish Shah dated 08/02/2019. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • Location Plan 1086-301 		

- Block Plan 1086-302
- Existing Floor Plan 1086-303
- Existing Elevations 1086-304

Council's Evidence

There is no relevant planning history or enforcement action on the subject site.

Council tax have confirmed that the liability for Council Tax started on 11/12/1998. It has been in payment continuously since then.

A site visit to the property was undertaken on the 13/03/2019. The officer was satisfied that the unit had been occupied for residential use for some time. The property was occupied.

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 residential unit at Flat B, 20 York Mews has 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