

LDC Report	05/04/2019
Officer	Application Number
Alyce Keen	2019/0817/P
Application Address	Recommendation
20 York Mews London NW5 2UJ	Grant Lawful Development Certificate
1st Signature	2nd Signature (if refusal)
Proposal	
Use of the first, second and third floors of building as a residential unit (Use Class C3).	
Assessment	
<p>The application site is located at the first, second and third floors of the building at 20 York Mews which is situated above the retail use at 335 Kentish Town Road.</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 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 24/11/18; 03/12/2017; 11/12/2016; 15/12/2015; 01/01/2015 01/01/2014; 01/01/2013; 01/05/2012; 01/07/2010 for 52 weeks • Council Tax Invoices for financial year 2013/14; 2015/16; 2016/17; 2017/18; 2018/19. • 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 <p>Council's Evidence</p>	

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 01/04/1996. 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 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