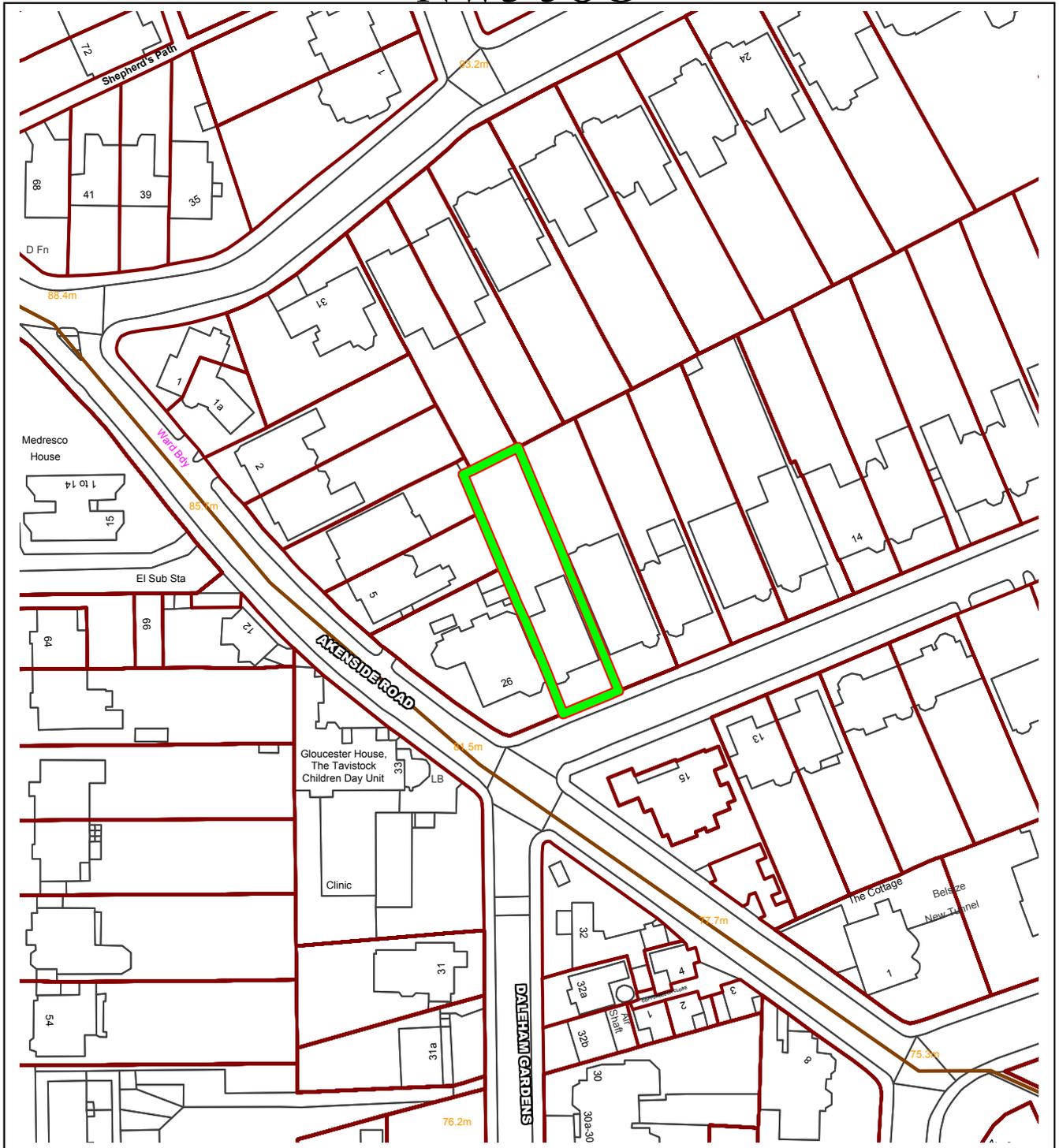


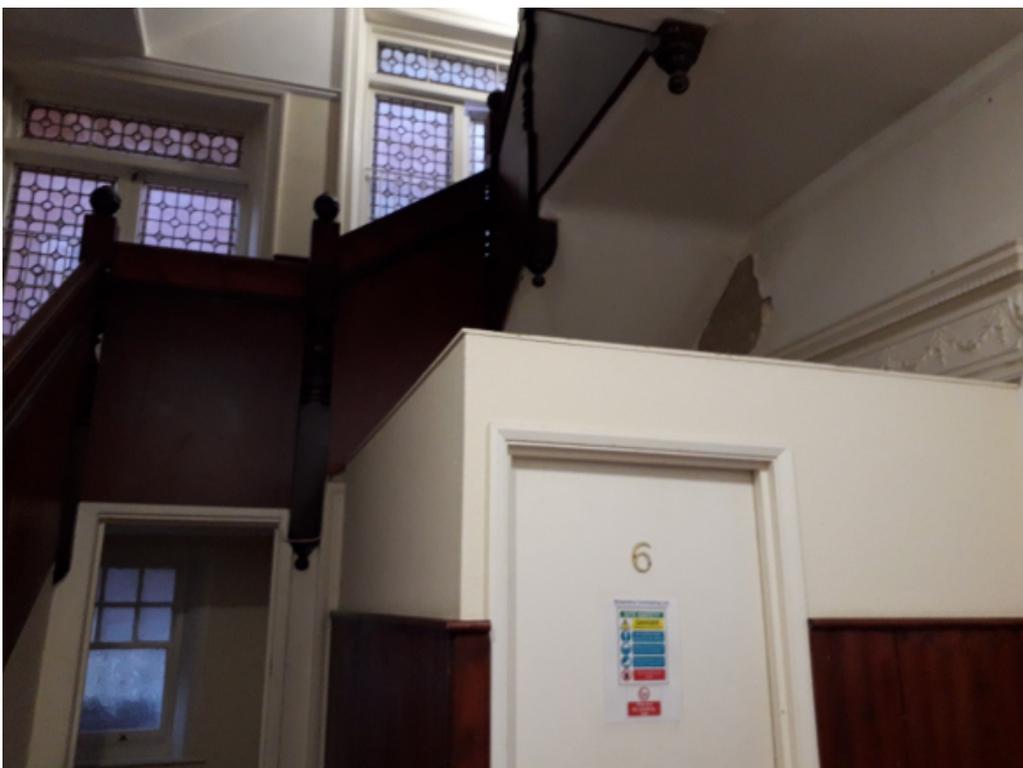
2019/0225/P - 24 Wedderburn Road, NW3 5QG



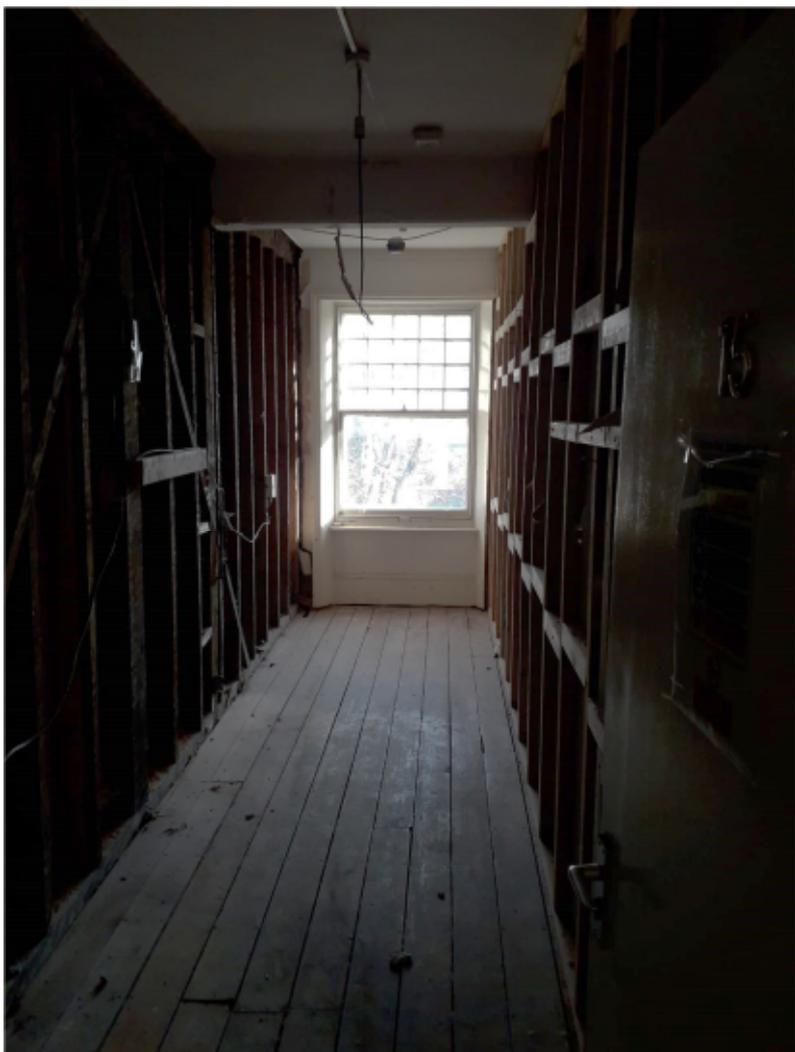
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1. Unit 7A hallway on first floor



2. Entrance to Unit 6 on ground floor



3. Room 15 on second floor



4. Views out the rear window from first floor to the rear garden



5. Unit 8 on the first floor



6. Unit 8 bathroom on the first floor

Delegated Report		Analysis sheet	Expiry Date:	12/03/2019
(Members Briefing)		N/A	Consultation Expiry Date:	N/A
Officer			Application Number(s)	
Alyce Keen			2019/0225/P	
Application Address			Drawing Numbers	
24 Wedderburn Road London NW3 5QG			Refer to decision notice.	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Use of the building as 23 studio residential units (Class C3).				
Recommendation(s):	Granted Lawful Development Certificate			
Application Type:	Certificate of Lawfulness (Existing)			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	09	No. of objections	09
Summary of consultation responses:	<p>Given the nature of certificate of lawfulness applications, and in particular that purely matters of legal fact are involved in its determination, the Council does not engage in a formal consultation process. Nevertheless, nine objections were received from local residents on the following grounds summarised below:</p> <ul style="list-style-type: none"> • I lived in the above property from 2005 to 2013 and I can say they were barely rooms in very unhealthy and unhygienic conditions clearly they were not 25 self-contained studios as stated in the application. • The building most recently had approximately 15 flats. • If the Council approves this property for the 25 flats as claimed, this would substantially increase the risk of fire. • There are already 7 large wheelie bins outside 24 Wedderburn Road on the pavement which permanently block off nearly half the width of the pavement. • With 25 separate flats, it is reasonable to assume that some of the residents will own cars which will need to be parked on the road. This may substantially increase the need for local street parking on what is a very short street which generally has little room to park as it is. • There was poor maintenance of the property with the back garden, most years, looking like a giant rubbish tip which attracted unwanted vermin. <p><u>Officer response:</u></p> <ol style="list-style-type: none"> 1. <i>The planning merits of the use are not relevant in determining this type of application; purely legal issues are involved;</i> 2. <i>This information will be assessed alongside all available evidence;</i> 3. <i>The Council has no reason to question the reliability of the statements provided. These have been considered alongside all other supporting evidence providing by the applicant, as well as, any available Council evidence in accordance with the Act.</i> 					
CAAC/Local groups comments:	As this application is for a Certificate of Lawfulness (Existing) local groups were not required to be consulted. No comments were received from any local groups.					

Site Description

The site is a four-storey detached property located on the northern side of Wedderburn Road. This application relates to accommodation on the ground, first, second and third floors and accessed by stairs rising up from the ground floor front entrance lobby.

The building is not listed and sits within the Fitzjohns/Netherhall Conservation Area.

This application seeks to demonstrate that on the balance of probability the use as residential (Class C3) at ground, first, second and third floor levels began more than four years before the date of this application such that its retention would not require planning permission.

It is noted that at the time of the site visit, an internal strip out had been completed to refurbish the existing units.

Assessment

1. Applicant's Evidence

1.1 The applicant has submitted the following information in support of the application:

- Statutory declaration of Mr Iraj Elghanian of 30 Annandale Avenue, London, N3 3PJ dated 8 November 2017 including exhibit IE1; IE2; IE3; IE4; IE5.
- Statutory Declaration of Mr Paul Benveniste of 22 Garrick Avenue, London NW11 9ES dated 4 November 2017.
- Statutory Declaration of Mr Iven Titelbaum dated 16 November 2018.

1.2 The applicant has also submitted the following plans:

- Existing Ground Floor Plan (Drawing Ref: WED1- PL1);
- Existing First Floor Plan (Drawing Ref: WED1- PL 2);
- Existing Second Floor Plan (Drawing Ref: WED1- PL 3);
- Existing Third Floor Plan (Drawing Ref: WED1- PL 8);
- Existing Roof Plan (Drawing Ref: WED1- PL 9);
- Existing Elevations (Drawing Ref: WED1- PL 4);
- Existing Elevations (Drawing Ref: WED1- PL 5);
- Existing Elevations (Drawing Ref: WED1- PL 6);
- Existing Elevations (Drawing Ref: WED1- PL 7).

2. Council's Evidence

2.1 The most relevant historic planning records are summarised below:

34140R1 - Alterations to the roof space to provide one additional self-contained flat, including the erection of dormer windows at the front, rear and side. Granted planning permission 11/08/1982.

2.2 Other evidence:

- Valuation Office Agency (VOA) records show council tax banding details for residential use at Flat 1 (effective 30/03/2009), Flat 1A (effective 30/03/2009), Flat 2 (effective 30/03/2009), Flat 3 (effective 30/03/2009), Flat 4 (effective 31/03/2010), Room 5 (effective 30/03/2009), Flat 6 (effective 30/03/2009), Flat 7 (effective 30/03/2009), Flat 7A (effective 30/03/2009), Flat 8 (effective 30/03/2009), Flat 9 (effective 30/03/2009), Flat 10 (effective 30/03/2009), Flat 11 (effective 30/03/2009), Flat 12 (effective 30/03/2009), Flat 12A (effective 30/03/2009), Flat 14 (effective 30/03/2009), Flat 15 (effective 30/03/2009), Flat 16 (effective 30/03/2009), Flat 17 (effective 30/03/2009), Flat 18 (effective 30/03/2009), Flat 19 (effective 30/03/2009), Flat 20 (effective 30/03/2009), Flat 21 (effective 30/03/2009), Flat 22 (effective 01/04/1993), and Flat

23 (effective 01/04/1993).

- The Council's HMO Licensing team have confirmed they have had prior involvement at the property.

2.3 Site visit:

- A site visit to the property was undertaken by the case officer on 27/02/2019. The officer observed some vacant units with bathrooms and kitchenettes. While other occupied units were unable to be viewed. On balance it appeared the building had been in a use consistent with that of residential (Class C3) and noted evidence of this use having operated in this way for some time.

3. Comments from Local Residents

3.1 Given the nature of certificate of lawfulness applications, the planning merits of the use are not relevant in determining an application; purely matters of legal fact are involved.

3.2 The response from the local residents have been assessed, and while the objections and points raised have been duly noted, it is considered that no additional evidence has been provided to contradict or undermine the applicant's version of events.

4. Assessment

4.1 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 (Planning Practise Guidance para. 006), 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.

4.2 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 as 23 studio units had begun since at least 2009 and appears to have remained as such until the present time.

4.3 As such, it is considered that the information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the use of Flats 1, 1A, 2, 3, 4, 5, 6, 7, 7A, 8, 10, 11, 12, 12A, 14, 16, 17, 18, 19, 20, 21, 22, 23 as residential (Class C3) is likely to have begun more than 4 years before the date of this application, such that its retention would not require planning permission as required under the Act. Furthermore, and on balance, the Council's evidence does not contradict or undermine the applicant's version of events.

1. Recommendation

1.1 Approve certificate of lawfulness.

DISCLAIMER

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 5th August 2019, nominated members will advise whether they consider this application should be reported to the Planning Committee. For further information, please go to

www.camden.gov.uk and search for 'Members Briefing'.

JMS Planning & Development Ltd
Valley Farm
Rumburgh Road
Wissett
IP19 0JJ

Application Ref: **2019/0225/P**
Please ask for: **Alyce Keen**
Telephone: 020 7974 **1400**

30 July 2019

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Existing) Granted

The Council hereby certifies that on the 14 February 2019 the use described in the First Schedule below in respect of the land specified in the Second Schedule below, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 as amended.

First Schedule: Use of the building as 23 studio residential units (Class C3).

Drawing Nos: Existing Ground Floor Plan (Drawing Ref: WED1- PL1); Existing First Floor Plan (Drawing Ref: WED1- PL 2); Existing Second Floor Plan (Drawing Ref: WED1- PL 3); Existing Third Floor Plan (Drawing Ref: WED1- PL 8); Existing Roof Plan (Drawing Ref: WED1- PL 9); Existing Elevations (Drawing Ref: WED1- PL 4); Existing Elevations (Drawing Ref: WED1- PL 5); Existing Elevations (Drawing Ref: WED1- PL 6); Existing Elevations (Drawing Ref: WED1- PL 7. Statutory declaration of Mr Iraj Elghanian of 30 Annandale Avenue, London, N3 3PJ dated 8 November 2017 including exhibit IE1; IE2; IE3; IE4; IE5. Statutory Declaration of Mr Paul Benveniste of 22 Garrick Avenue, London NW11 9ES dated 4 November 2017. Statutory Declaration of Mr Iven Titelbaum dated 16 November 2018.

Second Schedule:
24 Wedderburn Road
London
NW3 5QG

Executive Director Supporting Communities



Reason for the Decision:

- 1 The use as 23 studio units began more than four years before the date of this application.

Informative(s):

- 1 You are reminded that this certificate solely relates to the change of use as described in the First Schedule above and does not grant planning permission or consent for any external alterations either described or shown on the approved drawings/documents attached to this Certificate.
- 2 The granting of this certificate is without prejudice to, and shall not be construed as derogating from, any of the rights, powers, and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular, shall not restrict the Council from exercising any of its powers or duties under the Town and Country Planning Act 1990 as amended. Planning advice may be sought from the Council's Development Management Team, Town Hall, Argyle Street WC1H 8EQ, (tel: 020 7974 4444) or by email at planning@camden.gov.uk.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Director of Regeneration and Planning

Notes

1. This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

DRAFT

DECISION