

LDC Report	15/02/2019
Officer(s) Samir Benmbarek Ben Farrant	Application Number(s) 2019/0516/P; 2019/0517/P; 2019/0518/P; 2019/0519/P; 2019/0534/P; 2019/0535/P; 2019/0536/P; 2019/0537/P; 2019/0538/P; 2019/0539/P; 2019/0540/P; 2019/0541/P; 2019/0542/P; 2019/0543/P; 2019/0548/P; 2019/0549/P; 2019/0550/P; 2019/0551/P; 2019/0552/P; 2019/0553/P; 2019/0554/P; 2019/0555/P; 2019/0560/P; 2019/0561/P; 2019/0562/P; 2019/0563/P; 2019/0573/P
Application Address Flats 1- 25, Flat A & Flat B 240 Kilburn High Road London NW6 2BS	Recommendation Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal Use as self-contained flat (Use C3)	
Assessment No. 240 Kilburn High Road is a five-storey building located on the eastern side of Kilburn High Road. The building is not listed, nor is it located within a conservation area. Opposite, on the western side of Kilburn High Road is the London Borough of Brent. At the front of the site at ground floor level, the building is in use as a dance studio (use D2). The applications seek to demonstrate that the part of the ground, first, second and third floors of No. 240 Kilburn High Road have been in use as 27 x self-contained flats for a period of 4 years or more such that the continued use would not require planning permission. A lawful development certificate application has been submitted for each flat. The applicant is required to demonstrate, on the balance of probability that the 27 x existing self-contained flats have existed for a period of 4 or more years. Planning History 2005/2545/P - Redevelopment of the site to provide a 5 storey building comprising ground floor in retail use (Class A1) to provide two retail units, change of use from office (Class B1a) to residential at first floor level in association with the provision of thirteen residential units (Class C3) on first, second, third and fourth floor levels (2 x bedsits, 3 x 1-bedroom self-contained flats, 4 x 2-bedroom self-contained flats, 4 x 3-bedroom self-contained flats). – Granted subject to	

S106 14/11/2005

Applicant's Evidence

The applicant has submitted the following information in support of the applications:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road
- Land Registry Title Deed
- Companies House file

The following plans were also submitted with the application:

- TQRQM19026135256234 Location Plan (OS Extract)
- 0455/400 Ground Floor Plan
- 0455/401 First Floor Plan
- 0455/402 Second Floor Plan
- 0455/403 Third Floor Plan
- 0455/404 Fourth Floor Plan

Council's Evidence

It was brought to the attention of the Council in April 2013 that the site had been developed out of accordance with the previously approved plans of 2005/2545/P to form (amongst other matters) 27 x studio and 1 bed flats, rather than the approved 13 flats (with a mix of studios, 1, 2 and 3 bed self-contained flats).

A Planning Contravention Notice was quickly served on the owner as a prelude to serving an enforcement notice against this breach of planning control. In response the owner provided evidence in the form of lease agreements, invoices and sworn statements that the use of the property as 27 residential units had existed, continually in excess of four years. The Council did not have any evidence to contradict this and the Council had to accept they were immune from enforcement action under Section 171B of the Town & Country Planning Act 1990 (T&CPA) and the enforcement case was closed on 26th May 2013.

The property was revisited by one of Camden Council's Planning Enforcement Officers in March 2017. It was confirmed that the property has not materially changed since it was inspected in 2013.

Flat 1

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 1 since 31/07/2009.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant had submitted the following documents in relation to Flat 1:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009

- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 1 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 2

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 2 since 31/07/2009.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat was in residential use (C3) and the layout of the property correctly corresponds to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 2:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 2 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 3

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 3 since 31/07/2009.

A site visit was undertaken to the property on 12 July 2017. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 3:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 3 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 4

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 4 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as

its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 4:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 4 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 5

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 5 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 5:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 5 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 6

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 6 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 6:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 6 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this

Flat 7

The Council Tax Team has confirmed that the liability for Council Tax has been established for

Flat 7 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 7:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 7 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this

Flat 8

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 8 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 8:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 8 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 9

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 9 since 31/07/2019.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 9:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 9 has

been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 10

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 10 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 10:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 10 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 11

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 11 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 11:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 11 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 12

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 12 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 12:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019

- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 12 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 13

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 13 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 13:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 13 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 14

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 14 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 14:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 14 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 15

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 15 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds

correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 15:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 15 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 16

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 16 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 16:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 16 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 17

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 17 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 17:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 17 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 18

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 18 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 18:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 18 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 19

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 19 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 19:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 19 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 20

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 20 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 20:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 20 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 21

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 21 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 21:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 21 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 22

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 22 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 22:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 22 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 23

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 1 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 23:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 23 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 24

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 24 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 24:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 24 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat 25

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat 25 since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 25:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat 25 has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat A

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat A since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer

was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat 13:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat A has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Flat B

The Council Tax Team has confirmed that the liability for Council Tax has been established for Flat B since 31/07/2009.

A site visit was undertaken to the property on 15th February 2019. On the site visit, the officer was satisfied that the flat is in residential use (C3) and the layout of the property corresponds correctly to the submitted plans. The flat has its own entrance door within the building as well as its own utility meter, post-box and intercom.

The applicant has submitted the following documents in relation to Flat B:

- Statutory Declaration (sworn affidavit) signed by A H Kerallah dated 2019
- Council Tax Bands for 240 Kilburn High Road with effect from 31/07/2009
- Land Registry Title Deed
- Companies House file

The evidence submitted and site visit demonstrates that on the balance of probability, Flat B has been in continuous use for a period surpassing 4 years and therefore and the Council has no evidence to contradict this.

Assessment and Context

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.

No. 240 Kilburn High Road is a five-storey building with a D2 (dance studio) unit at ground floor level and self-contained flats at ground, first, second, third and fourth floor levels. This was observed on the site visit with separate intercoms and post-boxes as well as each individual front door having its own lock. Each self-contained flat has its own kitchen and bathroom and there are no shared facilities present at site apart from the main staircase to access each floor.

The applicant/agent is seeking clarification of the authorised use the building as there is no planning applications made on the site for these works.

The Council is satisfied that the evidence submitted demonstrates that the first, second, third, fourth and part of the ground floor at No. 240 Kilburn High Road have been in use as self-contained flats for a period surpassing four years. Council Tax records (as discussed above) further confirm the use of all of the self-contained units. Therefore, it can be demonstrated that the layout and residential situation of the applicant building has been in its existing situation for a continuous period of more than 4 years on the 'balance of probability' in respect of the satisfaction of the evidence submitted and subsequent site visit to the building.

The Council's enforcement history on the site (discussed above in the 'Council's Evidence' section of the report), serves to confirm the period of use and self-contained nature of the 27 x residential units.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability', the first, second, third, fourth and part of the ground floor level at No. 240 Kilburn High Road has been in use as a 27 x self-contained flats and has been used in this manner 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