

9 March 2020



Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Tara Kemmitt
E: tara.kemmitt@savills.com
DL: +44 (0) 20 7330 8605

33 Margaret Street W1G 0JD
T: +44 (0) 20 7499 8644
F: +44 (0) 20 7495 3773
savills.com

Dear Sir/Madam

Application for a Certificate of Lawfulness of an Existing Use – 39 Fordwych Road, NW2 3TN

On behalf of the applicant, I write to submit an application for a Certificate of Lawfulness for an Existing Use at 39 Fordwych Road to confirm the following:

Use of 39 Fordwych Road as eight self-contained residential flats

The application and supporting evidence demonstrates that the property at 39 Fordwych Road has been used as 8 self-contained residential dwellings (Class C3) for a minimum of four years and is therefore lawful under Section 191 of the Town and Country Planning Act 1990 (as amended), henceforth referred to as 'The Act.'

The Planning Practice Guide ('PPG') provides national guidance on Lawful Development Certificates. Paragraph 002 of the section on Lawful Development Certificates states that anyone can apply to the local planning authority to obtain a decision on whether an existing use or development is lawful for planning purposes or not. If the local planning authority is satisfied that the appropriate legal tests have been met, it should grant a lawful development certificate.

Paragraph 003 of the PPG reiterates the statutory framework covering 'lawfulness' for lawful development certificates as set out in Section 191 of The Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force.

Section 171B of The Act sets the time limits governing enforcement action and provides that development becomes immune from enforcement if no action is taken:



- Within four years of substantial completion for a breach of planning control consisting of operational development;
- Within four years for an unauthorised change of use of any building to use as a single dwellinghouse; and
- Within ten years for any other breach of planning control.

Case law [Arun District Council vs First Secretary of State 2007 1 WLR 523] has held that a change of use to residential whether carried out without planning permission or in breach of a planning condition will always be subject to the four year enforcement rule.

Paragraph 005 of the PPG advises that that for the purposes of an application for a lawful development certificate the following should be provided:

- A plan identifying the land;
- Evidence to verify the information in the application;
- A statement setting out the owner's interest in the land.

Paragraph 005 advises that an application must be accompanied by sufficient factual information/evidence for a local planning authority to decide the application along with the relevant application forms and fees.

Paragraph 006 of the PPG advises that the applicant is responsible for providing sufficient information to support an application and that in the case of applications for existing use, if the local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

Accordingly, please find enclosed the following documents:

- The completed application form;
- A site location plan identifying the land;
- Evidence to verify the application, as follows:
 - Statutory Declaration;
 - As built plans;
 - Tenancy agreements;
 - Council tax; and
 - Utility bills.

The applicants, Akelius UK Twelve Limited, are the sole freehold owners of 39 Fordwych Road, NW2 3TN.

Evidence

The following evidence has been collated and is submitted to demonstrate that the property has been used as eight self-contained residential dwellings for at least four years.

Statutory Declaration

The submitted Statutory Declaration (dated 11th July 2017) confirms that Keith David Freedman of K F Properties has been the freeholder of the property at 39 Fordwych Road since 1997, and the property has been configured as per the submitted plans since this time. The declaration confirms that the lawful use of the property is residential (use class C3) comprising 8 units, and has been used for this purpose continuously for more than four years before the date of the declaration.

HMO Licence Application

The submitted letter issued by Camden Council dated 9th October 2012 responds to an application for a HMO Mandatory Licensing received by the Council on the 19th September 2012. The letter states that following a review of the submitted information, the property would not be licensable under the Houses in Multiple Occupation (HMO) Mandatory Licensing scheme because the property is self-contained.

Additional Evidence

Flat 1 (Ground Floor)

- Tenancy agreement for a Mr Prashan Parbhu and Ms Floriana Lucia Gallo, for a period of 12 months commencing 25/01/2017
- Memorandum agreement relating to tenancy agreement dated 25/01/2017 for a Ms Floriana Lucia Gallo, for a period of 6 months commencing 26/01/2018.
- Memorandum agreement relating to tenancy agreement dated 25/01/2017 for a Ms Floriana Lucia Gallo, for a period of 6 months commencing 26/07/2018.
- Memorandum agreement relating to tenancy agreement dated 25/01/2017 for a Ms Floriana Lucia Gallo, for a period of 6 months commencing 26/01/2019.
- Online review of council tax records confirms that Flat 1 is Council Tax Band B with effect from 05/12/1997.

Flat 2 (Ground Floor)

- Tenancy agreement for an MS Holly Alexandra McGill for a period of 6 months dated 14/11/2016.
- Memorandum agreement relating to tenancy agreement dated 19/05/2017 for a Liana Marwan Gharzeddine for a period of 6 months commencing 20/05/2018.
- Memorandum agreement relating to tenancy agreement dated 19/05/2017 for a Liana Marwan Gharzeddine, for a period of 6 months commencing 20/11/2018.
- Online review of council tax records confirms that Flat 2 is Council Tax Band B with effect from 05/12/1997.

Flat 3 (Ground Floor)

- Tenancy agreement for a MS Suzette Luana Jacob St Clair for a period of 12 months commencing 10/03/2017.
- Utility bill from Southern Electric for Flat 3 dated 27/12/2018.
- Council tax bill dated 08/03/2019.
- Online review of council tax records confirms that Flat 3 is Council Tax Band B with effect from 05/12/1997.

Flat 4 (Mezzanine level)

- Tenancy agreement for a Mr Dominic Philippe Keen and Miss Helena Stephanie Newbold for a period of 12 months commencing 05/06/2015.
- Addendum to tenancy agreement for a Mr Dominic Philippe Keen and Miss Helena Stephanie Newbold for a period of 12 months commencing 05/06/2016.
- Council tax bill dated 14/08/2019.
- Online review of council tax records confirms that Flat 4 is Council Tax Band B with effect from 05/12/1997.

Flat 5 (1st floor)

- Tenancy agreement for a MS Naomi Mary Reid for a period of 12 months commencing 08/04/2017.
- Renewal agreement for a MS Naomi Mary Reid for a period of 12 months commencing 09/04/2018.
- Council tax bill dated 08/03/2019.
- Online review of council tax records confirms that Flat 5 is Council Tax Band B with effect from 05/12/1997.

Flat 6 (1st floor)

- Tenancy agreement for a MS Anabel Rodriguez-Gonzalez for a period of 12 months commencing 14/02/2014.
- Tenancy agreement for a MS Anabel Rodriguez-Gonzalez for a period of 6 months commencing 15/02/2018/
- Online review of council tax records confirms that Flat 6 is Council Tax Band B with effect from 05/12/1997.

Flat 7 (2nd Floor)

- Tenancy agreement for a MS Indie Vilkauskaitė for a period of 12 months commencing 15/08/2015.
- Online review of council tax records confirms that Flat 7 is Council Tax Band B with effect from 05/12/1997.

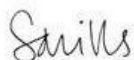
Flat 8 (2nd Floor)

- Tenancy agreement for a MS Giuseppina Barbato and Mr Vittorio Ubaldi for a period of 12 months commencing 24/03/2017.
- Memorandum agreement relating to tenancy agreement dated 24/03//2017 for a MS Giuseppina Barbato and Mr Vittorio Ubaldi, for a period of 6 months commencing 25/09//2018.
- Online review of council tax records confirms that Flat 8 is Council Tax Band B with effect from 05/12/1997.

Conclusion

The body of evidence submitted with the application is sufficiently precise and unambiguous. Taking account of the tenancy agreements and council tax records, it is considered on the balance of probability that 39 Fordwych Road has been used continuously as 8 self-contained residential dwellings (Class C3) for at least four years. There is therefore no good reason to refuse the application and a Certificate of Lawfulness should be issued accordingly.

Yours Faithfully,



Tara Kemmitt