

<b>LDC Report</b>	11/06/2020
<b>Officer</b>	<b>Application Number</b>
Angela Ryan	2020/1354/P
<b>Application Address</b>	<b>Recommendation</b>
335-337 Gray's Inn Road London WC1X 8PX	Grant certificate
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Continued use of upper floors for 6 self-contained flats, comprising 5 x 1 bed units and 1 x 2 bed unit	
<b>Assessment</b>	
<p>The application site is located on the south side of Gray's Inn Road in a mixed commercial/residential environment.</p> <p>The application relates to a 4-storey property, with retail use located at ground floor level and residential use located on the 3 upper floors.</p> <p>The building is not listed, but is located in the King's Cross St Pancras Conservation Area.</p> <p>The application seeks to demonstrate that 6 self-contained residential units have existed at the property 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 units have existed for a period of 4 or more years.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• 2009-2014 Tenancy Agreement Flat 1</li> <li>• 2014-2015 Tenancy Agreement Flat 1</li> <li>• 2016 Tenancy Agreement Flat 1,</li> <li>• 2009-2012 Tenancy Agreement Flat 2</li> <li>• 2012-2015 Tenancy Agreement Flat 2</li> <li>• 2019 Tenancy Agreement Flat 2</li> </ul>	

- 2006-2013 Tenancy Agreement Flat 3
- 2013 -2015 Tenancy Agreement Flat 3
- 2013 Tenancy Agreement Flat 4
- 2014-2015 Tenancy Agreement Flat 4
- 2015-2016 Tenancy Agreement Flat 4
- 2014-2015 Tenancy Agreement Flat 5
- 2017 Tenancy Agreement Flat 5
- 2012-2016 Tenancy Agreement Flat 6
- 2018-2019 Tenancy Agreement Flat 6
- 2019 Tenancy Agreement Flat 6
- Letter from Council Tax dated 12/11/2019 - confirming flats 1-4 were registered in 1997, and flats 5-6 from 2004
- E-mail from British Gas dated 27/12/2019 - Confirming gas supply at the property 2001
- E-mail from EDF Energy dated 23/12/2019 - confirming flats 3, 4, 5 confirming electricity supply in 2011, and 2010 for flat 6, Flat 1 pre-pay
- Thames Water dated 05/11/2019 – confirming water services to flats 1 to 5

The applicant has also submitted the following plans:

- A site location plan outlining the application site

### **Council's Evidence**

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

Council tax team have confirmed that the liability for Council Tax at the site started in 1997 or 2004. It has been in payment continuously since then.

The officer is satisfied that the property has been in use for 6 residential units for some time and for well over 4 years.

### **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 6 upper floor units have 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**