

LDC Report		12/02/2008
Officer		Application Number
Sheri Waddell		2007/6309/P
Application Address		Drawing Numbers
46 Howitt Road London NW3 4LJ		
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Certificate of lawfulness for proposed use as a single family dwelling-house.		
Relevant Planning History		
None.		
Recommendation: Refer to Draft Decision Notice		
Assessment		
Mid-terrace property on basement, ground, first and second floors.		
Applicant's case/evidence:		
<ul style="list-style-type: none"> The applicant's agent states that his client, John Bradbury, acquired the property in 1989 as a single dwellinghouse. He subsequently had the top floor laid out as a self-contained flat, whilst he continued to occupy the rest of the house. He has been using the whole property as a single dwellinghouse since the end of November 2007, and applied to the Council's Council Tax Division in mid-December 2007 to have the property re-assessed as such. The only submitted evidence is a Council Tax invoice for the financial year 2004/2005 addressed to John Bradbury at Flat 1, 46 Howitt Road based on an assessment of the property as falling within Band G. 		
Other evidence:		
<ul style="list-style-type: none"> As set out above, there is no planning history. The Council Tax Valuation List identifies the property as 10 flats falling within Band B – this was effective from mid-2007.. The Council's Environmental Health Residential Team has records of bedsit/HMO use dating back to 2005. Their records indicate that the property was used as bedsits in 2005, when it was registered as an HMO under The Housing Act 1985. This registration was automatically converted to a license under The Housing Act 2004 in August 2007. However, environmental health officers have not inspected the premises since 2005. 		
Assessment:		
<ul style="list-style-type: none"> It is unclear from the above what the lawful use of the property currently is i.e. whether it is as two flats that were unlawfully converted to an HMO, and this use has now ceased, or whether the HMO use has existed for over 10 years and has now become lawful. This needs to be the subject of further investigation, probably by the service of a Planning Contravention Notice, to ascertain 		

more details of when the HMO use commenced and ceased, and which parts of the property were used for this purpose. The property has been referred to the Planning Enforcement team for this to happen.

- The applicant's agent contends that the amalgamation of two self-contained flats to form a single dwellinghouse does not require planning permission, and that a Certificate should be granted for this proposed use. He quotes examples of Certificates for similar developments that have been granted by other local planning authorities for similar developments. There is no clear position in planning law on this – the only statement in the Town and Country Planning Acts is to confirm that sub-division needs planning permission. Notwithstanding the fact that other local planning authorities may have taken contrary decisions, Camden's position, since at least the adoption of the Unitary Development Plan 2000, and based on legal advice that was taken during the drawing up of policies to include in that Plan, is that planning permission is required to amalgamate self-contained residential units to create a single dwellinghouse. Indeed, Policy H3 in the Replacement Unitary Development Plan 2006 is predicated on being able to control such developments.
- Notwithstanding the uncertainty over the lawful use of the property, it is considered that the Certificate should be refused, as:
 - Either the lawful use of the property is as two self-contained flats, in which case use of the whole property as a single dwellinghouse constitutes a change of use for which planning permission is required;
 - Or the lawful use is as an HMO [or possibly a combination of a self-contained flat and an HMO], in which case planning permission will similarly be required.

Recommendations:

- **Refuse Certificate**
- **Refer to Enforcement team for further investigation**

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