

LDC Report	
Officer	Application Number
Nathaniel Young	2020/0414/P
Application Address	Recommendation
124 Torriano Avenue London NW5 2RY	Grant Certificate
1st Signature	2nd Signature (if refusal)
Proposal	
Continued use of ground floor and lower ground floor as two self-contained residential flats (Class C3).	
Assessment	
<p>The host property is a 4 storey residential property with additional roof level, comprising 4 flats.</p> <p>The application specifically relates to the ground and lower ground floors of the property.</p> <p>The pre-existing layout, as approved under application ref: 2005/4721/P consists of a single maisonette flat which spans over both the ground and lower ground floors, with a self-contained flat on the first floor level and another maisonette flat above covering the second and third floors. It is claimed that the ground and lower ground floors of 124 Torriano Avenue, are now in use as two separate, self-contained, residential flats on each floor, with the first, second and third floors remaining as approved.</p> <p>The building is not listed and is not located in a Conservation Area.</p> <p>The application seeks to demonstrate that continuous use of the ground floor and lower ground floor as two separate self-contained residential flats has occurred 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 the balance of probability that the existing residential flats have been in continuous use for a period of 4 or more years.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Council tax bill issued 21/12/2007 for 'Basement Flat 124 Torriano Avenue • Council tax bill issued 31/03/2009 for 'Ground Floor Flat 124 Torriano Avenue • Assured Shorthold Tenancy Agreements for both 'Flats 1 and 2' dating from 2016 to 2020. • Various utility bills from both 'Flats 1 and 2' dating 2016-2020. • Further Council Tax bills for 'Basement flat' and 'Ground floor flat' dated 2016-2020. 	

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Current floor plans

Council's Evidence

Relevant planning history:

2005/4721/P: Erection of a mansard roof extension and works of conversion from single dwelling house to 3x self-contained flats (Class C3). Approved 05/05/2006.

The Council tax website VOA.gov.uk demonstrates that the lower ground and ground floor maisonette (approved under app ref: 2005/4721/P) has been deleted and that two new entries for a separate ground floor flat and a lower ground floor flat have been in effect since 2007.

FLAT GND FLR 124, TORRIANO AVENUE, LONDON, NW5 2RY	C		5145347
FLAT LGND FLR 124, TORRIANO AVENUE, LONDON, NW5 2RY	C		5145346
MAIS LGND & GND FLRS 124, TORRIANO AVENUE, LONDON, NW5 2RY	Deleted		5141422
FLAT 1ST FLR 124, TORRIANO AVENUE, LONDON, NW5 2RY	C		5141420
FLAT 2ND FLR 124, TORRIANO AVENUE, LONDON, NW5 2RY	C		5141421
124, TORRIANO AVENUE, LONDON, NW5 2RY	Deleted		5008663

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 ground and lower ground floors of the property have been in use as two separate self-contained residential flats 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: Grant Certificate of Lawfulness