

LDC Report		16/07/2021	
Officer		Application Number	
Leela Muthoora		2021/2543/P	
Application Address		Recommendation	
Flats A - I, 5 Adamson Road, and Flats 1 - 10, 7 Adamson Road London NW3 3HX			
1st Signature		2nd Signature (if refusal)	
Proposal			
Continued use as 19 self-contained residential flats (Class C3)			
Assessment			
1. Site Description			
<p>1.1. The application site is located on the north side of Adamson Road. They are a pair of semi-detached five-storey properties, comprising of lower ground, upper ground, first, second and third (within roof) floor levels, although the pair are not linked internally. There are a group of four similar paired villas on this side of the street, where the predominant land use is residential. The buildings would have originally been built as dwellinghouses.</p> <p>1.2. The building is not a listed building but is within the Belsize Conservation Area.</p>			
2. Proposal			
<p>2.1. The application seeks to demonstrate that nineteen self-contained flats (nine (Flats A – I) within no.5 and ten (Flats 1 – 10) within no.7 Adamson Road) have existed within the two sites for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>2.2. 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>			
3. Applicant's Evidence			
<p>3.1. The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> a. Council tax records for Flats A, B, C, D, F, G, H and Flats 1, 2, 3, 5 ranging in date from 1999 to 2016 (Appendix 1) b. Valuation survey dated 1984 for Flats A to I. (Appendix 1) c. Maintenance work invoices for each of the flats from 2015 or 2016. (Appendix 2) d. Energy performance certificate dated for Flats A, B, C, D, E, G, H and Flats 1, 2, 4, 5, 			

6, 8, 9, and 10. (Appendix 3)

- e. Sworn Affidavit (dated 12 May 2021) confirms that Andrew Fisher acting as CEO of London & District Investments Ltd has been the freeholder of the property 5 Adamson Road since 1963 and 7 Adamson Road since 1967, and the property has been sub-divided into flats since 1974 and 1968 respectively. The declaration confirms that the lawful use of the property is residential (Class C3) comprising 19 units, and has been used for this purpose continuously for more than four years before the date of the declaration. (Appendix 4)
- f. Valuation Office Agency records of the Council tax banding for each residential unit; (Appendix 5)
- g. Google street view images showing doorbells, letterboxes and bins (Appendix 6)

3.2. The applicant has also submitted the following plans of No. 5 and No. 7 Adamson Road-

- a. A site location plan outlining the application site at 1:1250 (drawing number 01);
- b. Site block plan at 1:500 (drawing number 02)
- c. Site plan at 1:200 (drawing number 03)
- d. Lower ground floor plan at 1:100 (drawing number 04) showing-
 - i. Flat A (No. 5 front) comprising 2 bedrooms, lounge, kitchen, bathroom, en-suite shower room.
 - ii. Flat B (No. 5 rear) comprising 2 bedrooms, lounge, kitchen, bathroom, en-suite bathroom.
 - iii. Flat 1 (No. 7 front) comprising 2 bedrooms, lounge, kitchen, separate bathroom and toilet.
 - iv. Flat 2 (No. 7 rear) comprising 2 bedrooms, lounge, kitchen, bathroom.
- e. Upper ground floor plan at 1:100 (drawing number 05) showing-
 - i. Flat I (*letter I not number 1*) (No. 5 whole floor except hall/stairs) comprising 2 bedrooms, lounge, kitchen, bathroom and with en-suite bathroom.
 - ii. Flat 3 (No. 7 front) comprising 1 bathroom, kitchen / lounge / bedsit as open plan
 - iii. Flat 4 (No. 7 rear) comprising 2 bedrooms, kitchen / lounge as open plan, bathroom
- f. First floor plan at 1:100 (drawing number 06) showing-
 - i. Flat G (No. 5 front) comprising 2 bedrooms, lounge, kitchen, bathroom
 - ii. Flat H (No. 5 rear) comprising 2 bedrooms, lounge, kitchen, bathroom
 - iii. Flat 5 (No. 7 front) comprising 2 bedrooms, kitchen / lounge as open plan, bathroom
 - iv. Flat 6 (No. 7 rear) comprising 2 bedrooms, lounge, kitchen, bathroom
- g. Second floor plan at 1:100 (drawing number 07) showing-

- i. Flat E (No. 5 front) comprising 2 bedrooms, lounge, kitchen, bathroom
- ii. Flat F (No. 5 rear) comprising 2 bedrooms, kitchen / lounge as open plan, bathroom
- iii. Flat 7 (No. 7 front) comprising 2 bedrooms, lounge, kitchen, bathroom
- iv. Flat 8 (No. 7 rear) comprising 2 bedrooms, lounge, kitchen, bathroom
- h. Third floor plan at 1:100 (drawing number 08) showing-
 - i. Flat C (No. 5 front) comprising 2 bedrooms, lounge, kitchen, bathroom
 - ii. Flat D (No. 5 rear) comprising 2 bedrooms, kitchen / lounge as open plan, bathroom
 - iii. Flat 9 (No. 7 front) comprising 2 bedrooms, lounge, kitchen, bathroom
 - iv. Flat 10 (No. 7 rear) comprising 2 bedrooms, lounge, kitchen, bathroom
- i. Roof plan at 1:100 (drawing number 09)
- j. Existing south (front) elevation (drawing number 10)
- k. Existing west (side to no. 3) elevation (drawing number 11)
- l. Existing north (rear) elevation (drawing number 12)
- m. Existing east (side to no. 9) elevation (drawing number 13)
- n. Existing section AA (drawing number 14)
- o. Existing section BB (drawing number 15)

4. Council's Evidence

4.1. The relevant planning history is

- a. H7/3/B/4066 - no. 7 - Alterations to provide 8 self-contained flats at 7 Adamson Road Permission 07/09/1967.
- b. H7/3/15/13055 - no. 5 - Conversion of basement at 5 Adamson Road to provide 2 self-contained flats. Permission 21/04/1972 (The applications' proposed plan of lower ground floor are an approximate match to the existing layout).
- c. H7/3/B/13484 - no. 5 & 7- Creation of [2] self-contained flats in the roof spaces of 5 & 7 Adamson Road and the erection of new dormer windows. Permission 10/08/1972 (Roof spaces are the third floor level: Permission for 1x2 bedroom flat in no.5 and 1x2 bedroom flat in no.7. Further sub-divided into 2 additional flats at an unknown time, prior to 1996 registration with VOA)
- d. H7/3/B/20303 - no. 5 - Change of use of the first floor to provide 2 self-contained flats, including works of conversion. Permission 10/04/1975 (2 flats shown on applications' proposed plan at no.5 is the approximate footprint of the existing, with no change at no.7)
- e. H7/3/B/19775 - no. 5 & 7 - Change of use of the third floor to provide 2 self-

contained flats in each property, including works of conversion. Refused 31/01/1975 (The applications' proposed plan is approximate footprint of the existing layout).

- f. H7/3/B/19625R- no. 5 & 7 - Change of use of the first floor to provide two self-contained flats in each property, including works of conversion. Refused 31/01/1975 (The applications' proposed plan is approximate footprint of the existing layout)
- g. H7/3/B/18926R no. 5 & 7 - Change of use of the second floor to provide 2 self-contained flats in each property, including works of conversion. Refused 31/01/1975 (The applications' proposed plan is approximate footprint of the existing layout).

4.2. The floor plans submitted with the planning applications in the above history demonstrate that sub-divisions were made without consent and have been further sub-divided since. For instance it seems that the works refused in 1975 (see 4.1 e,f,g above) were carried out nevertheless. While layouts have been reconfigured and internal partitions introduced over time, the footprints of the existing flats (as set out in the drawings listed in paragraph 3.2) are approximate matches to those shown on the historical plans from previous planning applications and are consistent with the applicants' declaration.

4.3. The Council's Land and Property Gazetteer is consistent with the above as it shows all Flats A to I at no. 5 Adamson Road and Flats 1-10 at no. 7 Adamson Road.

4.4. HMO licensing have confirmed that all flats are self-contained.

4.5. The Valuation Office Agency website demonstrates the registered dates for the flats, as shown in Appendix 5, are;

- a. Flats A-I, 5 Adamson Road, since 1993 and
- b. Flats 1-10, 7 Adamson Road, since 1996

5. Assessment

5.1. 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.

5.2. The Council does not have any evidence to contradict or undermine the applicant's version of events.

5.3. The information provided by the applicant is deemed to be sufficiently precise to demonstrate that 'on the balance of probability' the property has existed as 19 self-contained residential units for at least 4 years as required under the Act. Furthermore, the Council has no evidence to contradict or undermine the applicant's version of events.

6. Recommendation: Grant Lawful Development Certificate