

LDC Report		
Officer		Application Number
Joshua Ogunleye		2021/3534/P
Application Address		Recommendation
Unit 5a 44 St Paul's Crescent London NW1 9TN		Grant Certificate of Lawfulness (Existing)
Proposal		
Use as a residential unit (C3)		
Assessment		
<p>The application site relates to the western most part of a plot of land at the rear of Agar Grove (due north) and St Paul's Crescent (due east) amongst other buildings on the site, the application site forms a block of 11 units, which are a mixture of live/work and residential units.</p> <p>The wider site is accessed via St Paul's Crescent (western side). The host property relates to an existing two storey live/work unit located at the western end of the site, bounded at the rear (west) by existing railway lines and open land (embankment) to the south.</p> <p>The site is located in the Camden Square Conservation Area, which was extended to include the application site in November 2002. There are no listed buildings within the vicinity of the site.</p> <p>The application seeks to demonstrate that a ground floor unit has existed as a residential use 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 unit has existed 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"> • Various tenancy agreements over the majority of the latter period • Valuation Office Council tax records (single residential unit since 2021) • Various statutory declarations from freeholders, tenants, letting company <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> • A site location plan outlining the application site and existing plans showing the current layout 		

Council's Evidence

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

Council tax have confirmed that the liability for Council Tax since 2021. It has been in payment continuously since then.

Judging the evidence submitted and the history of the site, officers are satisfied that the unit has been occupied for a period of 4 or more years continuously.

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 lower ground floor unit has 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