

# LDC Report

**Officer**

Miriam Baptist

**Application Number**

2021/3118/P

**Application Address**

1 South Hill Park Gardens  
London  
NW3 2TD

**Recommendation**

Grant Certificate of Lawfulness (proposed)

**Proposal**

Use as a single-family dwelling house (C3).

**Assessment**

The application for the certificate relates to the whole of the property, and its proposed use as a single-family dwelling house.

**Applicant's Evidence**

The applicant has submitted the following information in support of the application:

- Valuation Office letter confirming separate maisonette from end of April 2019
- Valuation Office emails confirming split into two units
- Statutory declarations from owner's son and from a family friend.

The applicant has also submitted the following plans:

- Layout plans of the existing (2 flats) and the proposed (a single-family dwelling).

**Council's Evidence**

Council tax valuation for two band G maisonettes commencing on 30 April 2019.

<https://www.tax.service.gov.uk/check-council-tax-band/property/12469363000>

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A deleted Council tax valuation for a single band H house.

**Assessment**

The Secretary of State has advised 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 planning records indicate that the property was used as a single-family dwellinghouse since the appointed day, until some time in early 2019 when the property underwent some subdivision without planning permission. The subdivision into two maisonettes occurred less than 4 years ago and so the use as two units has not accrued lawfulness. Therefore the last lawful use of the property was as a single-family dwellinghouse.

Furthermore, the two units were occupied by two generations of the same family, albeit with a degree of internal separation. The house appears to have still been occupied by the same household as a result. The Council does not have any evidence to contradict or undermine the applicant's version of events. Use of the two units as separate, independent self-contained units is unlawful.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate on the balance of probability that the removal of the internal partitions, and the use of the building as single family dwellinghouse by a single household (use class C3), would be lawful.

**Recommendation: Approve**

Existing and proposed floorplan layouts dated 2 June 2021; Cover letter from Christopher Wickham Associates dated 22 June 2021; Valuation Office emails; Letter from Valuation office dated 29 March 2020; Statutory Declaration from Logan Coutts; Statutory Declaration from Adriel Leff; Application form.