

REF: MR/DB/R00562

Planning Department
London Borough of Camden
5 Pancras Square
London
N1C 4AG

8th March 2022

Dear Sir / Madam,

**APPLICATION FOR CERTIFICATE OF LAWFUL EXISTING USE IN ACCORDANCE WITH SECTION 191(1) OF THE TOWN AND COUNTRY PLANNING ACT 1990
1 – 3 SOUTHAMPTON ROAD, KENTISH TOWN, LONDON, NW5 4JS**

I write on behalf of the applicant, Kentish Estate Ltd, to submit an application for a Certificate of Lawful Existing Use made in accordance with Section 191(1) of the Town and Country Planning Act 1990 (the Act) concerning the above site. The Certificate is sought to confirm the lawful planning use of 1-3 Southampton Road, Kentish Town, NW5 4JS (the site) as fifteen dwellings.

Application Considerations

This application for a Certificate of Lawfulness seeks to establish that the use of the site as fifteen dwellings is lawful.

Section 191(1) of the Act states:

*“(1) If any person wishes to ascertain whether—
(a) any existing use of buildings or other land is lawful;
(b) any operations which have been carried out in, on, over or under land are lawful; or
(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,
he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.”*

This application is therefore made in accordance with Section 191(1) of the Act. Section 191(2) of the Act states:

*“(2) For the purposes of this Act uses and operations are lawful at any time if—
(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.”*

It is considered that the use of the site as fifteen dwellings meets the provisions of Section 191(2)(a) and (b). Section 191(3A) states:

“(3) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

- (a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,*
- (b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or*
- (c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.”*

In this instance, the time for taking enforcement action in respect of the use of the building as fifteen dwellings has expired. Section 171B of the Act states:

- (1) “Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.*
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.”*

Evidence to demonstrate that the site has been used as fifteen dwellings for a period of greater than four years is provided with this application in accordance with Section 191(4) of the Act:

- (4) “If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”*

Paragraph 006 (Ref ID: 17c-006-20140306) of the Lawful Development Certificate Guidance details that the applicant is responsible for providing sufficient information to support a submission. The evidence submitted with this application is detailed as follows:

1. As-built existing survey plans and elevations;
2. Two no. statutory declarations as follows:
 - a. Statutory declaration of Dana Osman Hamde, Building Supervisor, dated 28th January 2022;
 - b. Statutory declaration of Firas A. Asadi, Building Manager, dated 28th January 2022;
3. Tenancy Schedule providing history of occupation; and
4. Historical tenancy agreements as follows:
 - a. 1 Southampton Road:

- i. Flat 1: 18.08.2015;
- ii. Flat 2: 24.08.2015;
- iii. Flat 3: 19.08.2015;
- iv. Flat 4: 03.08.2015;
- v. Flat 5: 30.07.2015;
- vi. Flat 6: 11.08.2015; and
- vii. Flat 7: 30.07.2015;
- b. 3 Southampton Road:
 - i. Flat 1: 07.09.2015;
 - ii. Flat 2: 03.08.2015;
 - iii. Flat 3: 27.04.2016;
 - iv. Flat 4: 14.08.2015;
 - v. Flat 5: 16.08.2015;
 - vi. Flat 6: 07.08.2015;
 - vii. Flat 7: 21.08.2015; and
 - viii. Flat 8: 09.08.2015.

Paragraph 006 (Ref ID: 17c-006-20140306) continues to state the following:

“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

As detailed above, contained within the submission and provided by the applicant are two no. statutory declarations and a series of tenancy agreements which clearly demonstrate that the site has been in continuous use as 15 no. dwellings for a period in excess of four years, indeed since 2015. This evidence is further supplemented by as-built existing survey plans.

On this basis it is considered that there is clear evidence that the use of 1-3 Southampton Road, Kentish Town as fifteen no. dwellings is lawful by virtue of Section 191 of the Act, and thus it is respectfully requested that the certificate herein applied for is granted.

Scope of the application

The following documents are submitted with the application via the planning portal:

- This covering letter prepared by ROK Planning;
- The completed application form;
- The relevant application fee of £6,930;
- Site Location Plan;
- As-built existing plans prepared by AMU Surveys Ltd as follows:
 - Existing topographical survey and ground floor plan (Drawing no. 21063-01);
 - Existing first floor plan (Drawing no. 21063-02);

- Existing second floor plan (Drawing no. 21063-03);
- Existing third floor plan (Drawing no. 21063-04);
- Existing roof plan (Drawing no. 21063-05);
- Existing front elevation (Drawing no. 21063-06);
- Existing rear elevation (Drawing no. 21063-07);
- Existing side elevation (Drawing no. 21063-08).
- Two no. statutory declarations as follows:
 - Statutory declaration of Dana Osman Hamde, Building Supervisor, dated 28th January 2022;
 - Statutory declaration of Firas A. Asadi, Building Manager, dated 28th January 2022;
- Tenancy Schedule providing history of occupation; and
- Historical tenancy agreements as follows:
 - 1 Southampton Road:
 - Flat 1: 18.08.2015;
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 - Flat 5: 30.07.2015;
 - Flat 6: 11.08.2015; and
 - Flat 7: 30.07.2015;
 - 3 Southampton Road:
 - Flat 1: 07.09.2015;
 - Flat 2: 03.08.2015;
 - Flat 3: 27.04.2016;
 - Flat 4: 14.08.2015;
 - Flat 5: 16.08.2015;
 - Flat 6: 07.08.2015;
 - Flat 7: 21.08.2015; and
 - Flat 8: 09.08.2015.

I trust that you have all the information you require to validate this application. If, in the interim, you have any queries please do not hesitate to contact either Daniel Botten (daniel.botten@rokplanning.co.uk) or myself at this office. I look forward to your formal acknowledgement of the application.

Yours faithfully,



Matthew Roe
Director
ROK Planning

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