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| <b>LDC Report</b>  |  | 22/3/2021                                    |
| <b>Officer</b>   |  | <b>Application Number</b>                    |
| Fast Track Team  |  | 2022/0170/P                                  |
| <b>Application Address</b>   |  | <b>Recommendation</b>                        |
| 58 Primrose Gardens<br>London<br>NW3 4TP   |  | Grant Certificate of Lawfulness (existing)   |
| <b>1<sup>st</sup> Signature</b>  |  | <b>2<sup>nd</sup> Signature (if refusal)</b> |
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| <b>Proposal</b>  |  |  |
| Continued use as self-contained residential flat for a period exceeding 4 years  |  |  |
| <b>Assessment</b>  |  |  |
| <p>The application site is the top floor flat of the semi-detached property at 58 Primrose Gardens, London, NW3 4TP. The application relates to the existing use of loft space as a self-contained residential flat for a period exceeding 4 years.</p> <p>The building is not listed and is located in the Belsize Conservation Area.</p> <p>The application seeks to demonstrate that the top floor flat in the loft space has been in use as a self-contained residential flat for a period exceeding 4 years. The accommodation according to the documents that have been provided has been in use since 2016.</p> <p>The evidence submitted supports these dates proving a greater than 4 year use. The self-contained residential flat has existed 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><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>• Gas Safety Certificate 15/10/20216</li> <li>• Gas Safety Certificate 23/10/2017</li> <li>• Gas Safety Certificate 19/11/2018</li> <li>• Gas Safety Certificate 6/10/2019</li> <li>• Gas Safety Certificate 8/10/2020</li> <li>• Energy Performance Certificate 02/04/2009</li> <li>• Energy Performance Certificate 04/10/2021</li> </ul> |  |  |

- Email from Council Tax office to Email to Thomas Koeppé – 3/8/10
- Email from Council Tax office to Email to Thomas Koeppé – 4/8/10
- Email from Council Tax office to Email to Thomas Koeppé - 27/08/2010
- Domestic Electrical Installation Condition Report -5/4/2018
- Domestic Electrical Installation Condition Report – 4/6/2016
- Domestic Electrical Installation Condition Report – 4/7/2021
- Desirable Residences - Management Agent Invoice 5.3.09
- Desirable Residences Contract - 4.6.08
- Camden Council Tax Bill – 2016/2017
- Camden Council Tax Bill – 2018/2019
- Camden Council Tax Bill – 2020/2021
- Camden Council Tax Bill – 2021/2022
- British Gas(Electricity) – 31/8/2017
- British Gas (Electricity) – 20/11/2019
- British Gas (Electricity) – 31/12/2020
- Bank Statements x 62 – 20/08/2016 - 19/09/2021

The applicant has also submitted the following plans:

- Site Location Plan
- Loft Plan Top Flat 58PG(1)
- Ground Floor Plan 58PG
- First Floor Plan 58PG

### **Council's Evidence**

Valuation Office Agency search carried out, application site has been in use since 30<sup>th</sup> November 2009.

There has been no enforcement action on the subject site.

### **History**

There is no relevant planning history.

### **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.

Evidence has been submitted which demonstrates continued use of the premises as self-contained flat for more than 4years, the council's evidence (council tax records) shows that the flat has been in existence since 2009.

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 top floor flat has existed and been in 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**