

| | | |
|---|--|--|
| LDC Report | | 22/3/2021 |
| Officer | | Application Number |
| Fast Track Team | | 2022/0363/P |
| Application Address | | Recommendation |
| Flat 5 and Flat 6 144 Drummond Street London NW1 2PA | | Grant Certificate of Lawfulness (existing) |
| 1st Signature | | 2nd Signature (if refusal) |
| | | |
| Proposal | | |
| Continued use of 2 x self-contained residential flats for a period exceeding 4 years | | |
| Assessment | | |
| <p>The application site is Flat 5 and Flat 6, 144 Drummond Street, London, NW1 2PA. The application relates to the existing use of flats 5 and 6 as self-contained residential flats for a period exceeding 4 years.</p> <p>The building is not listed or in a Conservation Area, it is however located in the Drummond Street Neighbourhood and Area Forum.</p> <p>The application seeks to demonstrate that Flat 5 and Flat 6 has been in use as a self-contained residential flats for a period exceeding 4 years. The accommodation according to the documents that have been provided has been in use since</p> <p>The evidence submitted supports these dates proving a greater than 4 year use. The self-contained residential flats have 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>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <p>Cover Letter - Michael Burroughs Affidavit – Ashraf Borghol Appeal Decision – 2075312 –(Jan 2009) Council Records – May 2009 Tenancy Agreements – October 2021; 2017 to date x 9</p> | | |

- Email from ctax office to Email to Thomas Koeppe – 3/8/10
- Email from ctax office to Email to Thomas Koeppe – 4/8/10
- Email from ctax office to Email to Thomas Koeppe - 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

The applicant has also submitted the plans for both flats contained in the affidavit.

-

Council's Evidence

Valuation Office Agency search carried out, application site has been in use since 2009

Enforcement

EN07/0915

EN08/0743

EN09/0236

EN15/1257

EN21/0516

History

L12/19/B/3403 – The addition of a second floor extension and alterations for improved staff lavatory facilities and for a mail room and buying room 16/03/1967

L12/19/B/P1 - Addition of a second floor - 02/03/1965

2007/6200/P - Drummond Street elevation and elevation alterations, in association with change of use from ancillary retail space (Class A1) on upper floors to provide 5 x self-contained flats (Class C3) (1 x studio, 3 x 1-bed flats and 1x 3-bed flat) with the retention of retail use (Class C3) at basement and ground floor level as 3 units. - 05/12/2007

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 Flat 5 and Flat 6 as self-contained flats for more than 4 years, 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

| |
|--|
| |
| |