

<b>LDC Report (Existing use)</b>		06/05/2022
<b>Officer</b>		<b>Application Number</b>
Obote Hope		2022/0983/P
<b>Application Address</b>		<b>Recommendation</b>
1-3 Southampton Road Kentish Town London NW5 4JS		Grant Certificate
<b>1<sup>st</sup> Signature</b>		<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>		
Continued use of the whole property as 15 self-contained flats (Use Class C3).		
<b>Assessment</b>		
<p>The application site is situated on the west side of Southampton Road and comprises a building containing 15 self-contained studio flats, which was formerly mixed use property with retail at ground floor with residential on first and second floors.</p> <p>The building is not listed and is also not located withing a conservation area.</p> <p>The application seeks to demonstrate that the property has been used as 15 self-contained flats which has occurred 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 the balance of probability that the existing residential units as self-contained dwellings have existed for a period of 4 or more years.</p> <p>1 and 3 Southampton Road:</p> <p>Ground floor:</p> <p>Flat 1 - Bedroom / kitchen / living as open plan, with en-suite shower room.</p> <p>Flat 2 - Bedroom / kitchen / living as open plan, with en-suite bathroom.</p> <p>Flat 3 - Bedroom / living as open plan, with shower room</p> <p>Flat 4 - Bedroom / living as open plan, with separate kitchen and en-suite shower room.</p> <p>1<sup>st</sup> Floor:</p> <p>Flat 5 - Bedroom / kitchen / living as open plan, with en-suite shower room.</p> <p>Flat 6 - Bedroom / kitchen / living as open plan, with en-suite shower room.</p> <p>Flat 7 - Bedroom / kitchen / living as open plan, with en-suite shower room.</p> <p>Flat 8 - Bedroom/living as open plan, with en-suite shower room.</p> <p>Flat 9 - Bedroom/living as open plan, with en-suite shower room.</p> <p>Second floor:</p> <p>Flat 10 - Bedroom / kitchen / living as open plan, with en-suite shower room</p>		

Flat 11 - Bedroom / kitchen / living as open plan, with en-suite shower room  
Flat 12 – Bedroom kitchen / living as open plan, with en-suite shower room.  
Flat 13 - Bedroom / living as open plan, with en-suite shower room  
Flat 14 – Bedroom / kitchen / living as open plan, with en-suite shower room.  
Flat 15 - Bedroom/living as open plan, with en-suite shower room.

### **Applicant's Evidence**

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

- 1 year Tenancy agreements for these years-

#### **1 Southampton Road**

Flat 1 – 2015, 2016, 2017 and 2020.  
Flat 2 - 2015, 2016, 2018 and 2021.  
Flat 3 – 2015, 2016 and 2021.  
Flat 4 – 2015, 2016, 2018, 2021.  
Flat 6 - 2015, 2016 x 2017, 2018 and 2019.  
Flat 7 – 2015, 2016 and 2021.

#### **3 Southampton Road**

Flat 1 - 2015, 2016 and 2017.  
Flat 2 - 2015, 2016, 2017, 2018 and 2019.  
Flat 3 - 2015 to 2016.  
Flat 4 - 2015, 2016, 2020 and 2021.  
Flat 5 – 2015, 2016, 2019 and 2020.

- Cover letter
- statutory declarations as follows:
  1. Statutory declaration of Dana Osman Hamde,
  2. Building Supervisor, dated 28th January 2022, and;
  3. Statutory declaration of Firas A. Asadi, Building Manager, dated 28th January 2022

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Current floor plans, and;
- Elevation drawing

### **Council's Evidence**

No's 1-3 Southampton Road

**2014/3371/P** – GPDO application for the change of use from retail (Class A1) to residential to create 1 x 2-Bed flat (Class C3) at ground floor level. **Granted** on 08/10/2014.

There is no other relevant planning history or enforcement action on the subject site other than the above-mentioned GDPO application which showed that several s/c studio flats existed in 2014.

The Council tax website VOA.gov.uk demonstrates the registered dates for the following;

**1 Southampton Road**

First floor flat 01/04/1993;

Second floor flat 01/04/1993;

**3 Southampton Road**

Registered as residential 01/04/1993.

**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 7 residential units have existed for a period of more than 4 years as required under the Act and certainly for at least 7 years. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

**Recommendation: Grant Certificate of Lawfulness**