

LDC Report	21/06/2022
Officer	Application Number
Matthew Dempsey	2022/1803/P
Application Address	Recommendation
13 Belsize Crescent London NW3 5QU	Grant Certificate
1st Signature	2nd Signature (if refusal)
Proposal	
Use of the property as a single residential unit (Class C3)	
Assessment	
<p>The application site is located on the South side of Belsize Crescent. The application relates to a four storey plus roof space terrace property. The building is not listed and is located in the Belsize Conservation Area.</p> <p>The application seeks to demonstrate that the whole property has existed as a single residential unit 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>SM Planning Cover Letter 25/04/2022. Appendix 1 – Council Tax Band Records, Appendix 2 – Electoral Register Letter Dated 16/10/2007, Appendix 3 – Electoral Register Letter Dated 07/02/2021, Appendix 4 – Council Tax Records for 13 Belsize Crescent, Appendix 5 – Statutory Declaration Dated 22/04/2022, Appendix 6 – Statutory Declaration Dated 22/04/2022, Appendix 7 – Statutory Declaration Dated 22/04/2022, Appendix 8 – Statutory Declaration Dated 25/04/2022.</p> <p>The applicant has also submitted the following plans:</p>	

- A site location plan outlining the application site
- Existing floor plans

Council's Evidence

Relevant planning history

G7/8/33/33075(R1) - The erection of a roof extension to provide extra residential accommodation. **Granted 15/12/1981.**

PWX0002678 - Change of use of the lower ground and ground floor flats into one self contained maisonette, As shown on drawing numbers; P002, P003, P007 and P008. **Granted 12/09/2000.**

There is no history of enforcement action on the subject site.

Council Tax records have confirmed that the liability for Council Tax started in 1990. It has been in payment continuously since then.

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 property has existed as a single residential dwelling house (C3 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: Grant Certificate.