

<b>LDC Report</b>	07/04/2022
<b>Officer</b>	<b>Application Number</b>
Fast Track SC	2022/0576/P
<b>Application Address</b>	<b>Recommendation</b>
29 Glenloch Road London Camden NW3 4DJ	Grant Certificate of Lawfulness (existing)
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Use of upper ground, first and second floors as 6 flats (2 on each floor).	
<b>Assessment</b>	
<p>The application site is located at 29 Glenloch Road, London, Camden, NW3 4DJ.</p> <p>The application relates to the existing use of upper ground, first and second floors as 6 flats (2 on each floor).for a period exceeding 4 years.</p> <p>The building is not listed and is located in the Belsize Park Conservation Area.</p> <p>The application seeks to demonstrate that Flats 1 to 6 have existed and been in continuous use 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> <p><b>Flat 1 Evidence</b></p> <p><b>Signed ASTs for the following periods:</b></p> <ul style="list-style-type: none"> <li>• 18/12/2017 – 17/12/2018</li> <li>• 18/12/2018 – 17/12/2019</li> <li>• 18/12/2019 – 17/12/2020 – tenant vacated early</li> <li>• 15/08/2020 – 14/08/2021</li> <li>• 30/09/2021 – 29/09/2022</li> </ul>	

- Energy Performance Certificate dated 01/09/2017
- Floorplan
- VOA banding with effect from 12/12/2017
- Estate agent details
- Email from UK Power dated 13/12/2021

### ***Flat 2 Evidence***

#### **Signed ASTs for the following periods:**

- 15/12/2017 – 14/12/2018
- 15/12/2018 – 14/12/2019
- 11/01/2020 – 10/01/2021
- 11/01/2021 – 10/01/2022
- Energy Performance Certificate dated 01/09/2017
- Gas Safety Records dated 17/03/2018, 24/09/2019, 16/10/2020 and 21/10/2021
- Floorplan
- VOA banding with effect from 12/12/2017
- Estate agent details
- Email from UK Power dated 13/12/2021

### ***Flat 3 Evidence***

#### **Signed ASTs for the following periods:**

- 29/12/2017 – 28/12/2018
- 29/12/2018 – 28/12/2019
- 14/02/2020 – 13/02/2021
- 14/02/2021 – 13/02/2022
- Energy Performance Certificate dated 08/11/2017
- VOA banding with effect from 12/12/2017
- Estate agent details
- Email from UK Power dated 16/12/2021

### ***Flat 4 Evidence***

#### **Signed ASTs for the following periods:**

- 01/03/2017 – 28/02/2018
- 01/03/2018 – 28/02/2019
- 01/03/2019 – 28/02/2020
- 01/03/2020 – 28/02/2021
- 01/03/2021 – 28/02/2022
  
- Energy Performance Certificate dated 31/08/2017
  
- VOA banding with effect from 12/12/2017
  
- Email from UK Power dated 16/12/2021

### ***Flat 5 Evidence***

#### **Signed ASTs for the following periods:**

- 02/01/2018 – 01/01/2019
- 02/01/2019 – 01/01/2020
- 02/01/2020 – 01/01/2021 – tenant vacated early
- 16/04/2020 – 15/04/2021
- 16/04/2021 – 15/04/2022
  
- Energy Performance Certificate dated 08/11/2017
  
- VOA banding with effect from 12/12/2017
  
- Estate agent details

Email from UK Power dated 16/12/2021

### ***Flat 6 Evidence***

#### **Signed ASTs for the following periods:**

- 12/12/2017 – 11/12/2018 – tenant vacated early
- 16/07/2018 – 15/07/2019
- 01/08/2019 – 31/07/2020
- 01/08/2020 – 31/07/2021 – tenant vacated early
- 01/12/2020 – 31/11/2022
  
- Energy Performance Certificate dated 01/09/2017
  
- VOA banding with effect from 15/04/2005
  
- Estate agent details

- Email from UK Power dated 16/12/2021

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Existing Floor Plans

### **Statutory Declarations**

- Shan Slavin – Confirms that the premises have been used as 6 self-contained flats since 2017.
- Damon Peddar – Confirms that the premises have been used as 6 self-contained flats since 2017.
- Jacquelyn Annemarie Devitt – Confirms that the premises have been used as 6 self-contained flats since 2017.

### **Supporting Evidence**

Letter from Russell-Cooke LLP which explains what is meant by the term 'periodic tenancy'.

### **Council's Evidence**

Valuation Office Agency search carried out, application site has been in use since 2017. It has been in payment continuously since then.

Site visit was carried out 14/6/2022. All flats are in occupation.

### **Enforcement**

There is no relevant planning history or enforcement action on the subject site.

### **History**

**2013/6016/PRE** - 12/09/2013 - Follow up request for pre app for Alterations to ground floor rooms and existing 2 bed basement flat to create a 3 bed maisonette. **Granted 7/10/2013.**

**2013/3691/PRE** - 10/06/2013 - Alterations to ground floor rooms and existing 2 bed basement flat to create a 3 bed maisonette. **Granted 26/06/2013**

**9100156** - 08/02/1991 - The formation of a two bedroom self-contained flat at basement level as shown on drawing nos. 9108/01 02 & 03. **Granted 02/07/1991**

**PW9902466** – 9/06/99 - Creation of an additional self-contained residential unit in the attic and the erection of a dormer to the rear. **Refused 31/08/1999**

## **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 premises have a lower ground floor, ground, first and second floors. Planning permission has been granted for the lower ground floor to be used as self-contained flat in 1991 (app ref no **9100156**). The drawings submitted show the lower ground floor flat. A cover letter was submitted by PPM Planning, which states the property comprises upper ground floor, first and second floors. The submitted statutory declarations refer to the building as being occupied only by six residential flats, which contradicts with the floor plans, planning history and Council tax records.

Planning Officers visited the premises and saw the front door of the lower ground floor flat and based on its external appearance this looks as in residential use. Access has been provided to all other six flats within the building and all appear to be occupied at the time of the visit.

The Council does not have any evidence to contradict or undermine the applicant’s version of events, other than the contradictory reference in the statutory declarations in relation to the number of flats present in the building.

The information provided by the applicant, other than the Statutory Declarations is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the lower ground floor unit has existed in residential 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**