

LDC Report	Expiry date : 26/04/2022
Officer Edward Hodgson	Application Number 2022/0819/P
Application Address Flats 7, 8 & 9 263 Eversholt Street NW1 1BA	Recommendation Grant certificate of lawfulness for existing use
1st Signature	2nd Signature (if refusal)
Proposal	
Use as three self-contained flats on ground floor.	
<u>Application site</u>	
<p>The site comprises a four-storey mid-terraced period property located on the western side of Eversholt Street. The front of the ground floor has a vacant retail space and the rest of the property is residential. The flats in question (flats 7, 8 and 9) are on the ground floor at the rear.</p> <p>The building is located within the Camden Town Conservation Area but it is not listed.</p>	
<u>Relevant Planning History</u>	
<p>2017/6900/P - Change of use from A1 (retail) to A3 (restaurant) at ground level and the installation of an extract/ventilation duct to rear elevation (retrospective) - refused and warning of enforcement action to be taken – 05/03/2018</p> <p>2013/3134/P - Use as 1 x 1 bedroom flat on lower ground floor, 1 x studio flat on lower ground floor and 6 x studio flats on first, second and third floors (Class C3). Certificate of Lawfulness (Existing) granted – 09/08/2013</p>	
<u>Proposal</u>	
The application is for a Certificate of Lawfulness for the existing use of flats 7, 8 and 9 on the ground floor (at the rear).	
<u>Application submission evidence</u>	
<ul style="list-style-type: none"> • Location Plan • Existing floor plans • Photograph of furniture invoice dated 01/08/2016 • Photograph of assured shorthold tenancy agreement dated 02/08/2016 • Photograph of guarantor agreement dated 02/08/2016 	

- Photograph of invoice dated 05/08/2016
- Photograph of assured shorthold tenancy dated 15/08/2016
- Photograph of assured shorthold tenancy dated 01/09/2016
- Photograph of TV licensing letter dated October 2016
- Photograph of maintenance invoice dated 19/12/2016
- Photograph of appliance invoice dated 20/12/2016
- Photograph of maintenance invoice dated 07/01/2017
- Photograph of residential inspection report dated 10/01/2017
- Photograph TV licensing letter dated March 2017
- Photograph of maintenance invoice dated 03/03/2017
- Photograph of maintenance invoice dated 04/04/2017
- Photograph of residential inspection report dated 08/04/2017
- Photograph of maintenance invoice dated 01/05/2017
- Photograph of maintenance invoice dated 06/06/2017
- Photograph of maintenance invoice dated 19/06/2017
- Photograph of residential inspection report dated 11/07/2017
- Photograph of maintenance invoice dated 15/07/2017
- Photograph of maintenance invoice dated 15/07/2017
- Photograph of appliance invoice dated 08/09/2017
- Photograph of assured shorthold tenancy dated 26/09/2017
- Photograph of maintenance invoice dated 30/09/2017
- Photograph of Virgin Media letter dated October 2017
- Photograph of maintenance invoice dated 16/10/2017
- Photograph of residential inspection report dated 07/11/2017
- Photograph of maintenance invoice dated 27/11/2017
- Photograph of TV licensing dated December 2017
- Photograph of assured shorthold tenancy dated 01/12/2017
- Photograph of maintenance invoice dated 10/01/2018
- Photograph of residential inspection report dated 10/01/2018
- Photograph of maintenance invoice dated 02/02/2018
- Photograph of maintenance invoice dated 02/02/2018
- Photograph of assured tenancy agreement dated 05/02/2018
- Photograph of guarantor agreement dated 05/02/2018
- Photograph of agency invoice dated 09/02/2018
- Photograph of residential inspection report dated 02/04/2018
- Photograph of maintenance invoice dated 05/04/2018
- Photograph of maintenance invoice dated 31/05/2018
- Photograph of maintenance invoice dated 15/06/2018
- Photograph of furniture invoice dated 20/06/2018
- Photograph of residential inspection report dated 05/07/2018
- Photograph of maintenance invoice dated 12/07/2018
- Photograph of TV licensing dated August 2018
- Photograph of maintenance invoice dated 04/08/2018
- Photograph of maintenance invoice dated 19/09/2018
- Photograph of residential inspection report dated 05/10/2018
- Photograph of maintenance invoice dated 01/11/2018
- Photograph of maintenance invoice dated 05/11/2018
- Photograph of maintenance invoice dated 11/11/2018
- Photograph of residential inspection report dated 10/01/2019

- Photograph of maintenance invoice dated 26/01/2019
- Photograph of assured shorthold tenancy agreement dated 04/02/2019
- Photograph of assured shorthold tenancy agreement dated 19/02/2019
- Photograph of maintenance invoice dated 06/03/2019
- Photograph of furniture invoice dated 02/04/2019
- Photograph of residential inspection report dated 04/04/2019
- Photograph of maintenance invoice dated 30/04/2019
- Photograph of maintenance invoice dated 01/07/2019
- Photograph of residential inspection report dated 01/07/2019
- Photograph of maintenance invoice dated 01/07/2019
- Photograph of maintenance invoice dated 07/07/2019
- Photograph of TV licensing dated 21/08/2019
- Photograph of maintenance invoice dated 29/08/2019
- Photograph of Virgin Media letter dated September 2019
- Photograph of guarantor agreement dated 02/09/2019
- Photograph of assured shorthold tenancy agreement dated 02/09/2019
- Photograph of assured shorthold tenancy agreement dated 19/09/2019
- Photograph of guarantor agreement dated 19/09/2019
- Photograph of agency invoice dated 19/09/2019
- Photograph of maintenance invoice dated 02/10/2019
- Photograph of guarantor agreement 04/10/2019
- Photograph of assured shorthold tenancy agreement dated 04/10/2019
- Photograph of maintenance agreement dated 12/10/2019
- Photograph of residential inspection report 14/10/2019
- Photograph of maintenance invoice dated 17/12/2019
- Photograph of TV licensing letter dated January 2020
- Photograph of residential inspection report dated 15/01/2020
- Photograph of appliance invoice dated 29/01/2020
- Photograph of maintenance invoice dated 27/02/2020
- Photograph of EDF energy letter dated March 2020
- Photograph of maintenance invoice dated 03/03/2020
- Photograph of maintenance invoice dated 18/04/2020
- Photograph of residential inspection report 30/04/2020
- Photograph of maintenance invoice dated 01/05/2020
- Photograph of maintenance invoice dated 31/05/2020
- Photograph of maintenance invoice dated 05/07/2020
- Photograph of maintenance invoice dated 09/07/2020
- Photograph of furniture invoice date 01/08/2020
- Photograph of appliances invoice dated 03/08/2020
- Photograph of EICR report dated 05/08/2020
- Photograph of EICR report dated 05/08/2020
- Photograph of EICR report dated 05/08/2020
- Photograph of residential inspection report dated 17/08/2020
- Photograph of assured shorthold tenancy agreement dated 02/09/2020
- Photograph of assured shorthold tenancy agreement dated 19/09/2020
- Photograph of assured shorthold tenancy agreement dated 04/10/2020
- Photograph of maintenance agreement dated 10/10/2020
- Photograph of maintenance agreement dated 10/10/2020
- Photograph of Virgin Media letter dated November 2020

- Photograph of TV licensing letter dated December 2020
- Photograph of residential inspection report dated 10/12/2020
- Photograph of maintenance invoice dated 04/01/2021
- Photograph of residential inspection report dated 06/01/2021
- Photograph of maintenance report dated 06/01/2021
- Photograph of maintenance report dated 14/02/2021
- Photograph of maintenance report dated 14/02/2021
- Photograph of maintenance report dated 21/04/2021
- Photograph of maintenance report dated 24/04/201
- Photograph of maintenance report dated 29/04/2021
- Photograph of residential inspection report dated 31/05/2021
- Photograph of maintenance invoice dated 01/06/2021
- Photograph of maintenance invoice date 06/06/2021
- Photograph of residential inspection report dated 05/07/2021
- Photograph of maintenance invoice dated 16/07/2021
- Photograph of assured tenancy agreement 02/09/2021
- Photograph of maintenance invoice dated 08/09/2021
- Photograph of Council Tax dated 16/09/2021
- Photograph of Council Tax dated 16/09/2021
- Photograph of Council Tax dated 16/09/201
- Photograph of assured tenancy agreement dated 19/09/2021
- Photograph of EDF energy letter dated October 2021
- Photograph of assured shorthold tenancy dated 04/10/2021
- Photograph of maintenance invoice dated 10/10/2021
- Photograph of maintenance invoice dated 29/10/2021
- Photograph of Virgin Media letter dated November 2021
- Photograph of Virgin Media letter dated November 2021
- Photograph of EDF energy letter dated November 2021
- Photograph of Marston letter dated 03/11/2021
- Photograph of Marston letter dated 03/11/2021
- Photograph of Camden Council Letter dated 08/11/2021
- Photograph of Camden Council letter dated 08/11/2021
- Photograph of Camden Council letter dated 08/11/2021
- Photograph of maintenance invoice dated 11/11/2021
- Photograph of residential inspection report dated 07/12/2021
- Statutory declaration dated 11/02/2021
- Statutory declaration dated 11/02/2021
- Statutory declaration dated 11/02/2021

Council's Evidence

- Enforcement cases EN20/0972, EN20/0973, EN20/0974. No contravention on all three cases.
- Site Visit 05/07/2022
- Planning history
- Council Tax records
- Valuation Office Agency's website (indicating the following):

FLAT 7 AT 263 EVERSOLT STREET, London, NW1 1BA	A	Camden
FLAT 8 AT 263 EVERSOLT STREET, London, NW1 1BA	A	Camden
FLAT 9 AT 263 EVERSOLT STREET, London, NW1 1BA	A	Camden

Flat 7 came into effect 19/09/2019

Flat 8 came into effect 02/09/2019

Flat 9 came into effect 04/10/2019

Assessment: Whether the existing use of flats 7, 8 and 9 is lawful

The Town and Country Planning Act 1990, Section 191, sets out that for the purposes of the Act, uses and operations are lawful at any time if:

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

For a dwelling use, no enforcement action can be taken if 4 years has expired and the applicant is therefore required to demonstrate that the use of the flats has existed for more than 4 years before the date of the application (01/03/2022).

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 applicant’s evidence indicates that the flats have been in situ at least 2016. Tenancy agreements, maintenance invoices, furniture invoices, TV licensing letters, energy bill letters and residential inspection reports from 2016, 2017, 2018, 2019, 2020 and 2021 have been provided indicating the flats have been in use since 2016. The plans submitted as part of application 2017/6900/P show the rear of the ground floor of the property as a café/restaurant in 2017. However, this was prior to the relevant date for this application.

Council Tax has been paid on the flats since 2019, as confirmed by the Council Tax Department. Three separate enforcement cases (EN20/0972, EN20/0973, EN20/0974) were raised against the three flats in 2020. The case officer concluded that the flats had been in use for at least 5 years, with no enforcement action taken against the flats. It is probable that tax was not paid on the flats between 2016-2019 despite the flats being occupied.

A site visit of all three flats was undertaken by officers on 05/07/2022. All three flats and the communal hall area showed some wear and tear, with cracks evident in the walls, some damage to light fixtures and skirting boards worn away. The walls and doors looked worn and dirty in places. This would suggest that the flats have been in use for a number of years, as shown in the below photos.



On the balance of probability, sufficient evidence has been submitted to demonstrate that the application premises (flats 7, 8 and 9) have been used as self-contained flats for a period of more than four years prior to the date of the application. There is evidence to demonstrate the use of the flats during this time and no evidence at this time of any intervening uses, or that the residential use was abandoned. As such the use as three self-contained flats is considered to be lawful and the Certificate of Lawful Use can be granted.

Recommendation: Grant Certificate of Lawful Use (Existing)