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|  **LDC Report**  | Exp 20/12/2022   |
| **Officer**  | **Application Number**  |
| Josh Lawlor  | 2022/4135/P |
| **Application Address**  | **Recommendation**  |
| 258 Kilburn High RoadLondonNW6 2BY |  Grant  |
| **1st Signature**  | **2nd Signature (if refusal)**  |
|   |   |
| **Proposal**  |
| Use of 1st, 2nd and 3rd floors of property as 6 self-contained flats (Class C3) |
| **Assessment** The application seeks to demonstrate that the 6 self-contained studio flats on 3 upper floors have been in-situ in excess of 4 years and therefore do not require planning permission. **Applicant’s Evidence**  The applicant has submitted dated Council Tax records for each studio flat-1. Studio 1, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 19 September 2013.
2. Studio 2, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 19 September 2013.
3. Studio 3, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 19 September 2013.
4. Studio 4, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 18 November 2013.
5. Studio 5, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 20 September 2013.
6. Studio 6, 258A, Kilburn High Road, London, NW6 2BY – Council Tax became payable at this address on 26 September 2013.

The applicant has also submitted a Fire Assessment and the following plans: * Front elevation 0707-P01
* Rear elevation 0707-P01
* 1st, 2nd and 3rd floor plans 01-01
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Relevant Planning history:

**2018/0610/P** 1st Floor Rear, 258 Kilburn High Road **Granted 19/09/2018**

**2015/6789/P** Change of use of basement from storage (vacant) to A3 Restaurant and change of use of rear of ground floor to A3. Elevational alterations to rear. **Granted 05/08/2016**

# 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 sufficiently demonstrate that ‘on the balance of probability’ the 6 studio flats have been in place for more than 4 years as required under the Act. The applicant’s evidence, namely the Council Tax evidence, is sufficiently precise and unambiguous to justify the grant of a certificate.

# Recommendation: Approve