

LDC (Existing) Report		Application number	2022/4503/P
Officer		Expiry date	
Tony Young		06/02/2023	
Application Address		Authorised Officer Signature	
22B Harley Road London NW3 3BN			
Conservation Area		Article 4	
Elsworthy		Article 4 Direction (basements)	
Proposal			
Use of property as a single dwelling house (Class C3).			
Recommendation:	Issue Certificate		
<p>Introduction</p> <p>The application site comprises a detached building located at the rear of nos. 20 and 22 Harley Road and is accessed down a private pathway between both properties. The site is bounded by both properties to the north-east and by Swiss Cottage School to the south-west.</p> <p>The site is not listed and is located within the Elsworthy Conservation Area</p> <p>The application seeks to demonstrate that, on the balance of probability, the use of the property as a single dwelling house began at least four years before the date of the application, such that a retention of the use would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following documents in support of the application:</p> <ul style="list-style-type: none"> Letter from London Borough of Camden, Council Tax & Business Rates (ref. 84822500) dated 17/10/2022, confirming that council tax has been paid at the property (no. 22B Harley Road) since 1997; Energy Performance Certificate (ref. 0606-2834-7719-9593-2221) dated 14/03/2022, describing the property (no. 22B Harley Road) as a detached bungalow. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> A site location drawing outlining the application site (ref. 1169-000); Existing ground floor plan (ref. 1169-110) dated August 2022; Existing 1st floor and roof plans (ref. 1169-111) dated August 2022; Undated floor plan from Optic Media (estate agents) showing internal layout with room annotation at ground and 1st floor levels (kitchen, bathroom, reception and 3 x bedrooms); Undated HM Land Registry documents. <p>Council's Evidence</p> <p>There is no relevant planning or enforcement history for the subject site.</p> <p>Council tax valuation for band G property (The Cottage, 22B Harley Road London NW3 3BN)</p>			

effective 24 February 1997 (Local authority reference number: 5107987).

Assessment

In regard to applications for a Certificate of Lawfulness, 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, nor any from others, to contradict or otherwise make the applicant's version of events less probable, 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 includes HM Land Registry records (title NGL779869) which identify in red an area of land to the rear of nos. 20 and 22 Harley Road; however, no details of the specific address, registered owner, use of the land or any dates are provided. Drawings and plans submitted identify the site and provide details of the internal layout of the property. The details are consistent with the applicant's assertion that the property is in use as a single dwelling house; however, any dates stated do not cover the requisite period of 4 years. This is the case also with an Energy Performance Certificate provided dated 14/03/2022 which while confirming the property address and describing the use as a detached bungalow, does not cover the requisite period of 4 years.

The applicant's evidence also includes a letter from London Borough of Camden, Council Tax & Business Rates (ref. 84822500) dated 17/10/2022 which confirms that council tax has been paid at the property (no. 22B Harley Road) since 1997. This information has been verified and confirmed as part of Council evidence. This evidence supports the applicant's assertion which is the subject of this application.

Overall, therefore, it is considered that the information provided by the applicant is sufficiently precise and unambiguous to demonstrate that, on the balance of probability, the building has been used as a single dwelling house for a period of more than four years prior to the date of this application and has continued as such until the present time. This being the case, and given the fact that the Council does not have any evidence to contradict or undermine the applicant's version of events, the use as a single dwelling house is lawful and would not require planning permission. In this respect, it is recommended that a Certificate of Lawfulness be granted.

RECOMMENDATION: Grant Certificate of Lawfulness