

LDC (Existing) Report		Application number	2022/5565/P
Officer		Expiry date	
Fast Track Team		13/02/2023	
Application Address		Authorised Officer Signature	
34 Fordwych Road London NW2 3TG			
Conservation Area		Article 4	
None		Basements	
Proposal			
Use of the property as 11 flats.			
Recommendation:		Issue Certificate	
<p>Assessment</p> <p>The application seeks to demonstrate that the 11 self-contained studio flats on 3 floors (Ground, First and Second) have been in-situ in excess of 4 years and therefore do not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted dated Council Tax records for each studio flat-</p> <ol style="list-style-type: none"> 1. Flat 1, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 2. Flat 2, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 3. Flat 3, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 4. Flat 4, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 5. Flat 5, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 6. Flat 6, 34 Fordwych Road, London, NW2 3TG – Council Tax became payable at this address on 6 February 2012. 7. Flat 7, 34 Fordwych Road, London, NW2 3TG - Council Tax became payable at this address on 6 February 2012. 8. Flat 8, 34 Fordwych Road, London, NW2 3TG - Council Tax became payable at this address 			

on 5 April 2012.

9. Flat 9, 34 Fordwych Road, London, NW2 3TG - Council Tax became payable at this address on 6 February 2012.
10. Flat 10, 34 Fordwych Road, London, NW2 3TG - Council Tax became payable at this address on 6 February 2012.
11. Flat 11, 34 Fordwych Road, London, NW2 3TG - Council Tax became payable at this address on 6 February 2012.

The applicant has also submitted the following plans and information:

- Site Location Plan 1195.37-C-001
- Floor Plans 1195.37.C-010
- Statutory Declaration of Jonathan Hager dated 12th July 2022
- Official copies of Title Register and Plan
- Assured Shorthold Tenancy (Flats 1, 2, 4, 5, 6, 7, 8, 9, 10 & 11)
- Deed of Surrender and Grant of Tenancy (Flat 3)
- Rent Registers for Rooms 1 and 3
- Application to Register a Fair rent based on 11 Units
- Application to Register a Fair Rent based on 7 Units
- Fair Rent Registers for Flats 1, 2 and 4

Relevant Planning History:

3567 The erection of a single storey rear addition **Granted 10/05/1967**

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 11 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: Grant certificate of lawfulness

