## LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

## 1. APPLICATION DETAILS

**Reference No:** HGY/2015/3198 **Ward:** Bounds Green

**Date received:** 28/10/2015

**Drawing number of plans:** 360_LDC(0)002

**Address:** 121 Bounds Green Road N11 2PP

**Proposal:** Certificate of Lawfulness for use of property as three self contained studio flats

**Applicant**: Mr Kumar Gohil

**Ownership:** Private/Council/Homes for Haringey

**Officer contact:** Nanayaa Ampoma

**Site visit date**: 19th November 2015

## 2. RECOMMENDATION

GRANT CERTIFICATE

## 3. SITE AND SURROUNDINGS

The application site relates to a three storey property on a short stretch of mixed use commercial properties. The site forms part of a row of terraces built at different periods. The property's ground floor is used as A1 (shop). The upper floors were previously a single family dwelling. The current Certificate application relates to the upper first and second floors.

The property is not listed or located within a conservation area. There is also no Article 4 Directive attached to the site.

## 4. RELEVANT PLANNING AND ENFORCEMENT HISTORY

*HGY/2004/0886*: Erection of steel staircase to rear of property to provide access to first floor two bedroom maisonette and change of use of ground floor kitchen area to retail. Alteration to rear elevation. – *Granted 18/05/2004*

*HGY/2005/1847*: Change of use of premises from retail (A1) to restaurant (A3). Installation of extract flue to rear and alterations to front elevation. - *Granted 29/11/2005*

*HGY/2011/2145*: Change of use from A1 (retail) to A5 (hot food takeaway) and installation of an extract duct to the rear. - *Granted 10/01/2012*

*HGY/2015/0720*: Change of use from A1 (retail) to A5 (hot food takeaway) and installation of an extract duct to the rear. – *Granted 04/05/215*

## 5. DETAILS OF PROPOSAL

A Certificate of Lawfulness for existing use is sought for the conversion of a family residence on the property's upper floors into three self contained flats. The application is made under Section 191 of the Town and Counctry Planning Act 1990 for an existing use. The applicant aims to show that the development was undertaken over four years ago.

## 6. EVIDENCE SUBMITTED

Location and OS plan
Existing floor layout 360_LDC(0)002
Planning Statement
Affidavit from Mr Kumar Gohill
Affidavit from Chris Christou
Tenancy agreement for Flat A by Mr Erdal Aydin (March 2010 to current)
Tenancy agreements for Flat B between November 2009 to May 2014
Tenancy agreements for Flat C between September 2009 to current
Housing Benefits correspondence for flat A, B and C.
Council Tax correspondence flat B, C
Council Tax e-mail (10th September 2015)
Job Centre correpondence flat A
Housing advise and homeless service Haringey flat A

## 7. RELEVANT PLANNING LEGISLATION

Section 191(2) (a) of the TCPA 1990 indicates that a use is lawful if the time limit for enforcement action has expired. The time limit for enforcement action relating to the conversion of a property into flats is set out as four years of continuous use under Section 171B of the Town and Country Planning Act 1990.

In light of this, an assessment is required as to whether the proposed use of the property as three flats has been continuous for the period of four years. The planning merits of the development are not material considerations in the issuing of the Certificate. As such, matters including neighbour amenity, character or design are not taken into account. The Council must determine whether, on the balance of probability, the applicant has produced adequate evidence to demonstrate this continuous four year use.

## 8. ANALYSIS/ASSESSMENT OF THE APPLICATION

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 evidence submitted with the application demonstrates a clear and unambiguous history of the use of the property's upper floors as three separate units since 2008. This is

confirmed by the Council's Council Tax office and Housing Benefits correspondence, togther with two affidavits which provide supporting legal documentation in support of this use. There are no planning documents to contradict this conversion.

As such, it is the view of Officers that on balance of probability, the use of the property's upper floors as three separate flats was undertaken over four years ago.

## 9. RECOMMENDATION

Grant Certificate

Registered No.: HGY/2015/3198

Applicant's drawing Numbers: 360_LDC(0)001; 360_LDC(0)002