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Ref: IC/2805
VIA PLANNING PORTAL

January, 2023

Head of Planning
Haringey Council

Dear Sir/Madam,

40 ELMHURST ROAD, N17 6RQ
LDC UNDER SECTION 191 OF THE ACT OF CONVERSION OF SINGLE FAMILY INTO TWO SELF-CONTAINED FLATS

Introduction

We are instructed by our clients, Mr Immanuel Ezekiel and Ms Caroline Syson, to submit a lawful development certificate in relation to the subdivision of 40 Elmhurst Road into two flats.

The properties are known as 40 and 40A Elmhurst Road and the accommodation provided is as follows:

- No. 40, a two-bedroom garden flat with access to a rear garden;
- No. 40A, a first floor and second floor flat.

The property is located on the south side of Elmhurst Road and is a terrace property.

It has subdivided into two flats, one at ground floor level and one at first floor level as referenced above.

On behalf of the we submit an LDC under Section 191 of the Act to confirm that this change of use is immune from enforcement action due to the effluxion of time.

Statutory register

By way of background, we confirm that the statutory building and planning register confirms entries as follows starting with the two building control entries as follows:

- **Application Reference: CPS/0005/2017/
Application Type: Competent Person
Site Address: 40, Elmhurst Road, LONDON, N17 6RQ
Proposal: Install a gas-fired boiler
Status: Record Closed**
- **Application Reference: CPS/0007/8189/
Application Type: Competent Person**

Site Address: 40 A, Elmhurst Road, LONDON, N17 6RQ
Proposal: Install a gas-fired boiler
Status: Record Closed

In respect of the statutory planning register this confirms no appeals and no enforcement cases and cites three previous applications to include proposals to convert into two flats.

The first application was that for planning permission which was refused on 19th May 2005 pursuant to **HGY/2005/0577** for the conversion of the property into two flats.

The single reason for refusal related to the loss of a family home.

The next iteration was a lawful development certificate under Section 192 for a rear dormer extension with rooflights to front roof slope and a Juliet balcony. This was found to be lawful as of 5th February 2016 and so clearly at that stage the property was in use as a single family dwellinghouse.

The final iteration was a more recent application to convert into two flats together with operational development.

This was refused pursuant to **HGY/2016/1380** for conversion into two self-contained flats and the erection of a rear extension.

It was refused on the basis of the loss of a family home and concerns as to the size of the outrigger.

Notwithstanding the refusal the conversion, with the extension, went ahead as of 2017 and the evidence to confirm the lawfulness via the effluxion of time is set out below.

In setting out this evidence we are mindful of the fact that the test is one on the balance of probabilities and the onus is upon the applicant to set out the evidence in a clear and unambiguous fashion.

It is also well established following *Gabbittas v SSE & Newham LBC* that the evidence of the applicant should not be rejected simply because it is not corroborated.

The operative period is from **January 2019 to January 2023** albeit we go back earlier than this to set the context to the change of use which has endured for a much longer period of time.

The evidence

No. 40: the garden flat

Assured shorthold tenancies

- **AST, 07/09/2017: Mr Jack Stewart Marlowe, Miss Amy Laker and Mr Luke Abbott, £1,400 per month for a period of 12 months;**
- **AST, 09/10/2018: Mr Jack Stewart Marlowe, Miss Amy Crowlyn Laker and Miss Jarvis, £1,500 per month for a period of 12 months; this takes us to the start of the operative four year period;**

- **AST, 10/10/2019:** Mr A Boukhalfa and Miss Zoghلامي with a specific reference to the garden flat, again a period of 12 months and the rent had increase slightly to £1,550 per calendar month.
- **AST, 27/11/2020:** Mr A Boukhalfa and Miss Zoghلامي with a specific reference to the garden flat, with an extension of the first agreement to 9th December 2021.
- These tenants left slightly early (*which is not uncommon in nay rental market and can be undertaken with an agreement between the parties*) and the next iteration was an AST of 13/10/2021 to Mr Abdullah Unal for a period of 12 months at £1,575 per calendar month.
- There was a supplemental agreement for the same tenant for the period 08/11/2022 to 13/10/2023 with the rent increased to £1,700.
- Mr Abdullah Unal is the current tenant.

Rent statements

- **11/09/2017:** rent statement for payment from Jack Stewart Marlowe;
- **18/10/2017:** rent statement for payment from Jack Stewart Marlowe;
- **09/12/2017-08/01/2018:** rent statement for payment from Jack Stewart Marlowe;
- **10/01/2018:** outlook rent statement Mr Marlowe;
- **12/02/2018:** outlook rent statement Mr Marlowe;
- **05/03/2018:** outlook rent statement Mr Marlowe;
- **26/03/2018:** outlook rent statement Mr Marlowe;
- **02/05/2018:** outlook rent statement Mr Marlowe;
- **12/06/2018:** outlook rent statement Mr Marlowe;
- **12/07/2018:** outlook rent statement Mr Marlowe;
- **09/08/2018:** outlook rent statement Mr Marlowe;
- **11/10/2018:** outlook rent statement Mr Marlowe;
- **13/11/2018:** outlook rent statement Mr Marlowe;
- **12/12/2018:** outlook rent statement Mr Marlowe;

- **Start of operative period**
- **08/01/2019: outlook rent statement Mr Marlowe;**
- **13/02/2019: outlook rent statement Mr Marlowe;**
- **11/03/2019: outlook rent statement Mr Marlowe;**
- **05/04/2019: outlook rent statement Mr Marlowe;**
- **13/05/2019: outlook rent statement Mr Marlowe;**
- **05/06/2019: outlook rent statement Mr Marlowe;**
- **10/07/2019: outlook rent statement Mr Marlowe;**
- **06/08/2019: outlook rent statement Mr Marlowe;**
- **03/09/2019: outlook rent statement Mr Marlowe;**
- **10/11/2019 to 09/12/2019 Anis Bukhalfa;**
- **10/12/2019 to 09/01/2020 Anis Bukhalfa;**
- **10/01/2020 to 09/02/2020 Anis Bukhalfa;**
- **10/02/2020 to 09/03/2020 Anis Bukhalfa;**
- **10/03/2020 to 09/04/2020 Anis Bukhalfa;**
- **10/04/2020 to 09/05/2020 Anis Bukhalfa;**
- **10/05/2020 to 09/06/2020 Anis Bukhalfa;**
- **10/06/20120 to 09/07/2020 Anis Bukhalfa;**

Next tenant:

- **Outlook printout for the period 10/07/2020-15/09/2021;**
- **Outlook printout for the period 24/09/2021-16/11/2022.**

40A: first and second floor flat

Assured shorthold tenancies

- **AST, 05/09/2017: Neil Hastings and Iliya Drankov, Niri and Anis Dagaradina, 12-month AST at £1.650 per calendar month;**
- **AST, 16/07/2018: Roberto Rosso, Pietro Di Sarno and Antonio Lulag, for a period of 12 months at £1,892 per calendar month;**
- **This takes us into the operative period**

- **AST, 13/07/2019: Sarah Johnson and James Dolan, for a period of 24 months at £1,861. 51 per calendar month;**
- **AST, 01/05/2022: Kelly Mato, Jeremy Wilson and Peter Soliman-Turay, a 12-month AST at £1,900 per calendar month, this had been prepared by Humphrey and Co;**

Rent statements

- **N. Hastings, I. Drankov and N. Dagaradina, 05/10/2017-04/11/2017;**
- **06/01/2017: statement of account Kings Property;**
- **05/12/2017: statement of account Kings Property;**
- **05/01/2018: statement of account Kings Property;**
- **06/02/2018: statement of account Kings Property;**
- **06/03/2018: statement of account Kings Property;**
- **05/04/2018: statement of account Kings Property;**
- **07/2018 to 27/06/2019: Humphrey and Co, rent statement;**
- **13/06/2020 to Humphrey and Co, rent statement, consolidated print out;**
- **13/05/2020: Humphrey and Co, printout;**
- **13/06/2020: Humphrey and Co, printout;**
- **13/07/2020: Humphrey and Co, printout;**
- **13/08/2020: Humphrey and Co, printout;**
- **13/09/2020: Humphrey and Co, printout;**
- **13/11/2020: Humphrey and Co, printout;**
- **13/12/2020: Humphrey and Co, printout;**
- **13/01/2021: Humphrey and Co, printout;**
- **13/02/2021: Humphrey and Co, printout;**
- **16/04/2021: deposit received and initial management fee;**
- **16/04/2021: admin fees;**
- **28/04/2021: rent receipt;**
- **01/06/2021: rent receipt;**

- **01/07/2021: rent receipt;**
- **01/08/2021: rent receipt;**
- **01/09/2021: rent receipt;**
- **01/10/2021: rent receipt;**
- **01/11/2021: rent receipt;**
- **01/12/2021: rent receipt;**
- **01/01/2022: rent receipt;**
- **01/02/2022: rent receipt;**
- **01/03/2022: rent receipt;**
- **31/03/2022: rent receipt;**
- **01/05/2022: rent receipt;**
- **01/06/2022: rent receipt and various admin fees;**
- **01/07/2022: rent receipt;**
- **01/08/2022: rent receipt;**
- **01/09/2022: rent receipt;**
- **01/10/2022: rent receipt;**
- **01/11/2022: rent receipt;**

Barclays client account

- **Reference to payment received in relation to 40A.**

07/12/2017 - £1,650	13/03/2019 - £1,314
14/12/2017 - £1,248.80	19/03/2019 - £1,892
09/01/2018 - £1,650	09/04/2019 - £1,314
12/01/2018 - £1,248	16/04/2019 - £1,892
08/02/2018 - £1,650	15/05/2019 - £1,314
14/02/2018 - £1,248	21/05/2019 - £1,240

07/03/2018 - £1,248	07/06/2019 - £1,314
08/03/2018 - £1,650	10/06/2019 - £500
28/03/2018 - £1,248	21/06/2019 - £1,242
09/04/2018 - £1,650	21/06/2019 - £152
04/05/2018 - £1,248	27/06/2019 - £650
10/05/2018 - £1,650	12/07/2019 - £1,314
14/06/2018 - £1,248	08/08/2019 - £1,314
16/07/2018 - £1,248	14/08/2019 - £1,513
13/08/2018 - £1,248	05/09/2019 - £1,269
13/09/2018 - £1,248	13/09/2019 - £1,513
18/09/2018 - £1,559	15/10/2019 - £1,453
27/09/2018 - £42	16/10/2019 - £2,380
15/10/2018 - £1,392	13/11/2019 - £1,262
17/10/2018 - £1,682	13/11/2019 - £1,502
15/11/2018 - £1,164	13/12/2019 - £1,292
16/11/2019 - £1,601	13/12/2019 - £1,513
14/12/2018 - £1,314	15/01/2020 - ££1,513
17/12/2018 - £1,541	15/01/2020 - £1,364
16/01/2019 - £1,314	13/02/2020 - £1,364
17/01/2019 - £1.892	14/02/2020 - £1,513
15/02/2019 - £1,314	13/03/2020 - £104
04/03/2019 - £1,412	04/01/2022 - £1,693
13/03/2020 - £1,513	01/02/2022 - £1,693
19/03/2020 - £1,260	01/03/2022 - £1,693
14/04/2020 - £1,513	01/04/2022 - £1,693
17/04/2020 - £1,022	03/05/2022 - £1,808
13/05/2020 - £1,513	01/06/2022 - £1,198

14/05/2020 - £1,364	01/07/2022 - £1,634
15/06/2020 - £1,254	13/03/2020 - £1,513
15/06/2020 - £1,513	06/07/2022 - £310
14/07/2020 - £1,861	01/08/2022 - £1,808
14/08/2020 - £1,861	02/09/2022 - £1,808
14/09/2020 - £1,861	03/10/2022 - £1,808
13/10/2020 - £1,801	01/11/2022 - £1,808
13/11/2020 - £1,861	
14/12/2020 - £1,861	
13/01/2021 - £1,861	
15/02/2021 - £1,861	
20/04/2021 - £257	
29/04/2021 - £1,817	
04/06/2021 - £1,693	
01/07/2021 - £1,693	
02/08/2021 - £1,561	
01/09/2021 - £1,693	
01/10/2021 - £1,693	
02/11/2021 - £1,633	
01/12/2021 - £1,643	

We also enclose an affidavit from the applicant Ms Syson.

The evidence shows continued occupation of the two flats with a foundation in the ASTS which allow occupation and forms the contract for such between the parties but also the consistent payments of the monies and the proof of rental monies having been paid to the applicant.

The applicants' affidavits are overarching documents with the full force of a statutory declaration.

The evidence show no breaks and is of a sufficient quantum and quality such that the balance of probability test has been met.

Ian Coward from these offices is dealing with this matter.

Yours faithfully

**Collins & Coward
encs**