



Officer Report

Application Number:	HGY/2026/0566
Application Type:	Lawful development: Existing use
Address:	258 Archway Road, Hornsey, London, N6 5AX
Proposal:	Lawful development: Existing use as 7 no. self-contained flats (Use Class C3).
Case Officer:	Daniel Boama
Valid Date:	02/03/2026
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Applicant:	Mr Diego Romer
Agent:	Mr J. Sharpe

RECOMMENDATION

Approve

1. PLANNING & ENFORCEMENT HISTORY

The relevant planning and enforcement history is as follows:

PLANNING CASES (3)

HGY/2014/0695

Address: 258, Archway Road, London, N6 5AX

Proposal: Use of first floor flat rear as self-contained residential unit

Received Date: 10 March 2014

Valid Date: 10 March 2014

Decision Date: 2 May 2014

Decision: Approve with Conditions

HGY/2014/2876

Address: Third Floor Flat, 258, Archway Road, London, N6 5AX

Proposal: Retrospective application for new dormer-conservatory / window to provide light and air to kitchen

Received Date: 8 October 2014

Valid Date: 8 October 2014

Decision Date: 3 December 2014

Decision: Approve with Conditions

HGY/2021/0106

Address: Third Floor Flat, 258, Archway Road, London, N6 5AX

Proposal: Certificate of Lawfulness for the existing use of Third Floor Flat, 258 Archway Road as a self-contained unit containing 3 bedrooms.

Received Date: 8 December 2020

Valid Date: 8 December 2020
Decision Date: 16 February 2021
Decision: Approve with Conditions

BUILDING CONTROL (1)

RGE/0011/6074

Status - Record Closed

App Type - Regularisation Application

Current Decision - Accepted

Decision Date - 10 March 2015

Address - 258, Archway Road, London, N6 5AX

Proposed Works - Conversion of shop, office and upper floor into 8 self contained flats.

2. REPRESENTATIONS

Planning Practice Guidance (PPG) on Lawful Development Certificates, sets out that:
"There is no statutory requirement to consult third parties. It may, however, be reasonable for a Local Planning Authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application." (Paragraph: 008 Reference ID: 17c-008-2014030).

The application was advertised through letters sent to neighbouring properties. No representations were received from neighbouring properties. An objection was received from the Highgate CAAC and the Highgate Society that outlined the following concerns:

- The flats do not meet the design standards applied in London

Officer comment: This is a certificate of lawfulness for existing use application, in which planning merits of this nature are not applicable to the assessment.

- The application contains no supporting evidence

Officer comment: A lot of evidence has been submitted as part of the application but withheld from public viewing due to data protection considerations.

RELEVANT PLANNING LEGISLATION

The application has been made under section 191 of the Town and Country Planning Act 1990 and relevant amendments. This is not a planning application but instead the applicant seeks confirmation that the proposed development is lawful.

Town and Country Planning Act 1990

Section 191 of the Town and Country Planning Act 1990 (as amended by section 10 of the Planning and Compensation Act 1991) states that:

"If any person wishes to ascertain whether any existing use of buildings or other land is lawful ...he may make an application for the purpose to the Local Planning Authority specifying the land and describing the use ... For the purposes of this Act uses ... are lawful at any time if –

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. If, on an application under this section, the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application of the use, described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

National Planning Practice Guidance (PPG)

National Planning Policy Guidance issued by the Government in relation to Lawful Development Certificates explains the process for obtaining a lawful development certificate for existing or proposed use.

In this case, the Local Planning Authority is requested to grant a certificate confirming that: “(a) an existing use of land, or some operational development, or some activity being carried out in breach of a planning condition, is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990” Paragraph 001 Reference ID: 17c-001-20140306. Paragraph: 009 Reference ID: 17c-009-20140306 of the PPG indicates:

“A Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”

As such, the impact of the proposed development on the neighbouring amenity or the character of the area cannot be taken into consideration for the purpose of this submission.

Paragraph: 006 Reference ID: 17c-006-20140306 of the PPG indicates: “The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.

In the case of applications for existing use, if a Local Planning Authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”

3. EVALUATION

Section 191 of the Act indicates that the burden of proof lies with the applicant, but the relevant test is ‘the balance of probability’. Local Planning Authorities (LPAs) are advised that (unless the applicant's evidence is imprecise or ambiguous, or the LPA has evidence of its own which contradicts or undermines the applicant's version of events), a certificate should be issued.

In this case, a Certificate is sought on the grounds that the parts of the building outlined in red on the submitted plans have been in use as seven self-contained flats for a near continuous period of 4 years or more.

Applicant's evidence

The application form accompanying this application asserts that the use of the relevant parts of 258 Archway Road, Hornsey, London, N6 5AX as seven flats commenced on 01-01-2000.

The application is accompanied by the following evidence:

1 Flat - Upper Ground Floor Front

1. Ground Floor Front Studio Flat – Existing Plan
2. 2020 Assured Shorthold Tenancy Agreement – Upper Ground Floor Front Flat – 1 August 2020
3. 2023 Assured Shorthold Tenancy Agreement – Upper Ground Floor Front Flat – 1 August 2023
4. 2009 Assured Shorthold Tenancy Agreement Ground Floor Front Studio – October 2009 to October 2010
5. 2010 Assured Shorthold Tenancy Agreement Ground Floor Front Studio – April 2010 to April 2011 – CE
6. Renewal Memorandum 17 April 2011 - Ground Floor Front Studio - from 17 April 2010 to 17 April 2011 for CE – Signed March 2011
7. Renewal Memorandum 17 April 2012 - Ground Floor Front Studio - from 17 April 2011 to 17 April 2012 for CE – Signed March 2012
8. 2013 Assured Shorthold Tenancy Agreement Ground Floor Front Studio – from 28 June 2013 to 27 June 2014
9. 2013 Assured Shorthold Tenancy Agreement Ground Floor Front – from 28 March 2013 to 27 March 2014
10. Renewal Memorandum 28 June 2014 – Ground Floor Front Studio – Signed 22 May 2014
11. Renewal Memorandum 28 June 2015 – Ground Floor Front Studio GE – Signed 27 April 2015
12. Renewal Memorandum 28 June 2016 – Ground Floor Front Studio GE – signed 9 March 2016
13. Renewal Memorandum 28 June 2017 – Ground Floor Front Studio – signed 20 May 2017
14. Ground Floor Front Studio Meter Reading – 1 February 2018
15. Energy Performance Certificate HM Government – Ground Floor Front Flat – 31 July 2017
16. Directgov – Flat Ground Floor Front - Council Tax BAND B – Effective 15 July 2000
17. Witness Declaration Ground Floor Front Studio dated 8 January 2026
18. Electrical Installation Condition Report IPM18C – Ground Floor Front Lower Studio Flat – 18 February 2023
19. 2015 Assured Shorthold Tenancy Agreement – Ground Floor Front – from 19 January 2015 to 18 January 2016
20. Inventory Check – MOT Inventories – Ground Floor Front Low Level Flat – 10 October 2018
21. Electrical Installation Condition Report KEWTECH – Ground Floor Upper Front Studio – 22 February 2013
22. Inventory Check – Power Property Services – Front Ground Floor Studio – 28 June 2013
23. Ground Floor Flat Meter Reading photo - 2018

2 Flat - Lower Ground Floor Front

1. Lower Ground Floor Front Studio Flat – Existing Plan
2. Agreement for a Common Law Tenancy Ground Floor Front Lower Studio – Agreement made on 13 July 2020
3. Tenancy Agreement 23 November 2021 – Ground Floor Front Lower Studio – from 28 November 2021 to 27 May 2026
4. Tenancy Agreement 20 February 2016 – Ground Floor Front Lower Studio – 20 February 2016 to 19 February 2017
5. Inventory Check – Full Circle Reports – Ground Floor Front Lower Studio – 20 February 2016
6. Witness Declaration Ground Floor Front Lower Flat dated 20 May 2024
7. Tenancy Agreement 20 February 2023 – Ground Floor Lower Studio – from 1 March 2023 to 28 February 2026

8. Electrical Installation Condition Report KEWTECH – Ground Floor Lower Front Flat – 22 February 2013
9. Renewal Memorandum 17 October 2012 – Ground Floor Flat Studio - from 17 April 2010 to 17 April 2011 – Signed August 2012
10. Renewal Memorandum 20 February 2017 – Ground Floor Front Lower Studio Flat – signed 16 January 2017
11. Renewal Memorandum 20 February 2018 – Ground Floor Front Lower Studio – signed 12 January 2018
12. Energy Performance Certificate HM Government – Ground Floor Flat – 31 May 2012
13. Energy Performance Certificate HM Government – Ground Floor Lower Flat – 29 November 2017
14. Energy Performance Certificate HM Government – Ground Floor Lower Flat – 29 November 2017
15. Ground Floor Flat Meter Reading Photo – 1 February 2018

3 Flat - Ground Floor Middle

1. Lower Ground Floor Middle Studio Flat – Existing Plan
2. 2013 Assured Shorthold Tenancy Agreement Ground Floor Middle Studio – from 26 April 2013 to 25 April 2014
3. 2015 Assured Shorthold Tenancy Agreement Ground Floor Middle Studio – 2 April 2015 to 1 April 2016
4. Renewal Memorandum 2 April 2016 – Ground Floor Middle Studio – Signed 24 January 2016
5. Tenancy Agreement 1 December 2016 – Ground Floor Middle Studio – from 1 December 2016 to 30 November 2017
6. Renewal Memorandum 1 December 2017 – Ground Floor Middle Studio – signed 29 September 2017
7. Ground Floor Middle Studio Meter Reading – 1 February 2018
8. Agreement for a Common Law Tenancy Ground Floor Middle Studio – Agreement made on 20 May 2020
9. Tenancy Agreement 1 February 2021 – Ground Floor Middle Studio – from 1 February 2021 to 31 January 2022
10. Renewal Memorandum 1 February 2022 – Ground Floor Middle Studio – Not Signed
11. Tenancy Agreement 22 December 2022 – Ground Floor Middle Studio – from 22 December 2022 to 21 December 2025
12. Electrical Installation Condition Report KEWTECH – Ground Floor Middle Flat – 5 February 2013
13. Energy Performance Certificate HM Government – Ground Floor Middle Flat – 5 June 2012
14. Directgov – Flat Ground Floor Middle – Council Tax BAND C – Effective since 22 May 2016
15. Witness Declaration Ground Floor Middle dated 20 May 2024
16. Electrical Installation Condition Report IPM18C – Ground Floor Middle Studio Flat – 18 February 2023
17. Inventory Check – Full Circle – Rear Middle Studio – 1 December 2016

4 Flat - Ground Floor Rear

1. Lower Ground Floor Rear Studio Flat – Existing Plan
2. 2011 to 2012 Assured Shorthold Tenancy Agreement Ground Floor Rear Studio – January 2011 to January 2012
3. 2014 Assured Shorthold Tenancy Agreement Ground Floor Rear Studio – from 27 March 2014 to 26 March 2015
4. Renewal Memorandum 24 October 2015 – Ground Floor Rear Studio – Signed 5 August 2015
5. Inventory Check – Full Circle Reports – Rear Ground Floor Flat Left – 24 October 2013
6. Renewal Memorandum 24 October 2014 – Rear Ground Floor Flat Left – signed 9 September 2014

7. Inventory Check – Full Circle Reports – Ground Floor Rear Studio – 29 April 2016
8. Inventory Check Report – Power Property Services – Rear Studio – 25 April 2013
9. Tenancy Agreement 29 April 2016 – Ground Floor Rear Studio – from 29 April 2016 to 28 April 2017
10. Tenancy Agreement 19 April 2017 – Ground Floor Rear Studio – from 19 April 2017 to 18 April 2018
11. Inventory Check – Full Circle Reports – Ground Floor Rear Studio – 19 April 2017
12. Renewal Memorandum 19 April 2018 – Ground Floor Rear Studio – signed 28 February 2018
13. Renewal Memorandum 19 April 2019 – Ground Floor Rear Studio – signed 4 and 5 March 2019
14. Renewal Memorandum 19 April 2020 – Ground Floor Rear Studio – Signed 26 and 27 March 2020
15. Renewal Memorandum 19 April 2021 – Ground Floor Rear Studio – Signed 9 and 21 April 2021
16. Invoice and Statement – Ground Floor Rear Studio – for 19 April 2022 to 18 October 2023
17. Renewal Memorandum 19 October 2023 – Ground Floor Rear Studio – signed 15 September 2023
18. Electrical Installation Condition Report KEWTECH – Ground Floor Rear Flat – 28 January 2013
19. Energy Performance Certificate HM Government – Ground Floor Rear Flat – 5 June 2012
20. Directgov – Flat Ground Floor Rear – Council Tax BAND B – Effective since 7 July 2000
21. Witness Declaration Ground Floor Rear dated 20 May 2024
22. 2013 Assured Shorthold Tenancy Agreement Ground Rear Studio – from 24 October 2013 to 23 October 2014
23. Inventory Check – Full Circle Reports – Rear Studio Flat – 27 March 2014

5 Flat - First Floor Front

1. First Floor Studio Flat Existing Floor Plan
2. Directgov - Council Tax band B – Flat First Floor Front – Council Tax Band A since 09/06/1994
3. 2009 Assured Shorthold Tenancy Agreement First Floor Studio Flat – December 2009 to December 2010
4. Renewal Memorandum 1 September 2011 - First Floor Front - from 17 April 2010 to 17 April 2011 for ALEH – Signed September 2011
5. Renewal Memorandum 1 September 2012 – First Floor Front Flat – Signed August 2012
6. Renewal Memorandum 1 September 2013 – First Floor Front – Signed 5 July 2013
7. Inventory Check – Full Circle Reports – First Floor Front Flat – 21 August 2014
8. Renewal Memorandum 22 August 2015 – First Floor Front Flat – signed 30 June 2015
9. Inventory Check – Full Circle Reports - First Floor Front Flat — 16 January 2015
10. Tenancy Agreement 28 Oct 2015 – First Floor Front Flat – from 28 October 2015 to 27 October 2016
11. Inventory Check – Full Circle Reports – First Floor Front Flat – 14 November 2016
12. Tenancy Agreement 14 November 2016 – First Floor Front Flat – from 14 November 2016 to 13 November 2017
13. First Floor Front Flat Meter Reading – Removed/Installed 18 January 2018
14. Agreement for a Common Law Tenancy First Floor Front Studio – Agreement made on 27 April 2020
15. Renewal Memorandum 4 November 2021 – First Floor Front Studio – Not Signed
16. Tenancy Agreement 26 January 2023 – First Floor Front Studio – from 1 February 2023 to 31 January 2026
17. Tenancy Agreement 23 February 2024 – First Floor Front Studio – from 23 February 2024 to 22 February 2025

18. Electrical Installation Condition Report KEWTECH – First Floor Front Flat – 25 January 2013
19. Energy Performance Certificate HM Government – First Floor Front Flat – 31 May 2012
20. Witness Declaration for First Floor Front Flat dated 20 May 2024
21. Electrical Installation Condition Report IPM18C – First Floor Front Flat – 6 February 2023
22. 2010 Assured Shorthold Tenancy Agreement First Floor Studio Flat – May 2010 to May 2010 (or 2011)
23. 2010 Assured Shorthold Tenancy Agreement First Floor Studio Flat – August 2010 to August 2010 (or 2011)
24. 2013 Assured Shorthold Tenancy Agreement – First Floor Studio Flat – from 22 August 2014 to 21 August 2015

6 Flat - Second Floor Rear

1. GOV.UK – Council Tax Property Information Band B – Flat Second Floor Rear
2. Second Floor Rear Flat – Existing Plan
3. Tenancy Agreement 27 March 2023 – Second Floor Rear Flat – from 31 March 2023 to 30 March 2024
4. Tenancy Agreement 1 July 2022 – Second Floor Rear Flat – from 1 July 2022 to 30 June 2024
5. Electrical Installation Condition Report IPM18C – Second Floor Rear Flat – 11 February 2023
6. Agreement for a Common Law Tenancy – Second Floor Rear Flat – Agreement made on 29 May 2020
7. Tenancy Agreement 6 June 2021 – Second Floor Rear Flat – from 6 June 2021 to 5 June 2022
8. Tenancy Agreement 2 May 2024 – Second Floor Rear Flat – from 13 May 2024 to 12 November 2025
9. Inventory Check - Full Circle Reports – Second Floor Rear Flat – 6 June 2020
10. Inventory Check – Full Circle Reports – Second Floor Rear Flat – 1 July 2022
11. Inventory Check – Full Circle Reports – Second Floor Rear Flat – 31 March 2023
12. Inventory Check – Full Circle Reports – Second Floor Rear Flat – 13 May 2024
13. Inventory Check – Full Circle Reports – Second Floor Rear Flat – 16 May 2025
14. Witnessed Declaration Second Floor Rear Flat dated 20 May 2024

7 Flat - Second Floor Front

1. Second Floor Front flat Existing Plan
2. GOV.UK – Council Tax Property Information Band B – Flat Second Floor Front
3. Agreement for a Common Law Tenancy Second Floor Front Flat – Agreement made on 11 May 2020
4. Tenancy Agreement 25 May 2021 – Second Floor Front Flat – from 25 May 2021 to 24 May 2023
5. Tenancy Agreement 7 February 2023 – Second Floor Front Flat – from 7 February 2023 to 6 February 2026
6. Tenancy Agreement 13 June 2024 – Second Floor Front Flat – from 24 June 2024 to 23 December 2025
7. Electrical Installation Condition Report IPM18C – Second Floor Front Flat – 11 February 2023
8. Inventory Check – Full Circle Reports – Second Floor Front Flat – 7 February 2023
9. Inventory Check - Full Circle Reports – Second Floor Front Flat – 24 June 2024
10. Inventory Check - Full Circle Reports – Second Floor Front Flat – 25 May 2021
11. Inventory Check - Full Circle Reports - Second Floor Front Flat – 16 May 2020
12. Witness Declaration Second Floor Front Flat dated 20 May 2024

Other Supporting Documents

1. Location Plan
2. Email thread – CH and DR from 26 Jul 2013 to 20 Oct 2013
3. Statutory Declaration for 9 flats signed 19 February 2026 (2 flats are outside the scope of this application according to declaration, apparently sold on long leases - First floor rear and third floor flats)
4. Schedule of Evidence

The evidence presented to substantiate the statement of case is considered comprehensive in nature. On the balance of probabilities therefore it is considered that the evidence submitted by the applicant precisely and unambiguously demonstrates that the use of the relevant parts of 258 Archway Road, Hornsey, London, N6 5AX have been used as seven self-contained flats for a near continuous period of 4 years of more before the date of this application.

4. RECOMMENDATION

Grant the requested Certificate of Lawfulness under section 191 of Town and Country Planning Act 1990.

From the documentation and evidence provided, the Local Planning Authority is satisfied that, on the balance of probabilities the use of the relevant parts of 258 Archway Road, Hornsey, London, N6 5AX have been used as seven self-contained flats for a near continuous period of 4 years of more before the date of this application. Therefore, the sought use is considered to be lawful.