



Officer Report

Application Number:	HGY/2023/2753
Application Type:	Lawful development: Existing use
Address:	54 Wightman Road, Hornsey, London, N4 1RU
Proposal:	Certificate of Lawfulness for the existing use of the first, second, and third floors as 6 self-contained flats
Case Officer:	Laina Levassor
Valid Date:	07/11/2023
Applicant:	Mrs Alison Sandamas
Agent:	Mr Peter Ottery

RECOMMENDATION

Approve

PLANNING & ENFORCEMENT HISTORY

The relevant planning history is as follows this site.

PLANNING CASES (12)

1 - HGY/2009/0115

Address: 54, Wightman Road, London, N4 1RU

Proposal: Erection of two storey rear extension

Received Date: 13 January 2009

Valid Date: 13 January 2009

Decision Date: 11 March 2009

Decision: Withdrawn

2 - HGY/2009/0571

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: Erection of two storey rear extension (front lightwells previously proposed omitted).

Received Date: 1 April 2009

Valid Date: 1 April 2009

Decision Date: 26 May 2009

Decision: Approve with Conditions

3 - HGY/2010/1212

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: Excavation of basement and alterations and improvements to front façade.

Received Date: 7 July 2010

Valid Date: 7 July 2010

Decision Date: 15 September 2010

Decision: Approve with Conditions

4 - HGY/2012/1469

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: Retrospective planning application for retention of ground and first floor flats

Received Date: 23 July 2012

Valid Date: 23 July 2012

Decision Date: 30 January 2013

Decision: Refuse

5 - HGY/2014/2998

Address: 54, Wightman Road, London, N4 1RU

Proposal: Retrospective planning application to retain the existing two self contained flats at ground and lower ground floors

Received Date: 22 October 2014

Valid Date: 22 October 2014

Decision Date: 11 December 2014

Decision: Refuse

6 - VOID/2016/0669

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: Certificate of lawfulness for proposed use as C4 (HMO for 3-6 persons)

Received Date: 14 March 2016

Valid Date: 14 March 2016

Decision Date: 23 June 2016

Decision: Not Proceeded With

7 - VOID/2017/0566

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: CONVERSION OF PROPERTY TO BED & BREAKFAST

Received Date: 24 February 2017

Valid Date: 24 February 2017

Decision Date: 5 April 2017

Decision: Withdrawn

8 - HGY/2017/1379

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: Certificate of lawfulness: existing use of 8 flats

Received Date: 18 April 2017

Valid Date: 18 April 2017

Decision Date: 13 June 2017

Decision: Refuse

9 - HGY/2017/1378

Address: 54, Wightman Road, London, N4 1RU, London

Proposal: CONVERSION OF BASEMENT TO 2 x 2 BEDROOM SELF CONTAINED FLAT

Received Date: 18 April 2017

Valid Date: 18 April 2017

Decision Date: 23 June 2017

Decision: Withdrawn

10 - HGY/2018/3329

Address: 54, Wightman Road, London, N4 1RU

Proposal: Change of use involving the conversion of part of the ground floor and the lower ground floor to create a 1 x 2 bedroom self contained flat.

Received Date: 13 November 2018

Valid Date: 13 November 2018

Decision Date: 8 January 2019

Decision: Refuse

11 - HGY/2019/1998

Address: 54, Wightman Road, London, N4 1RU

Proposal: Conversion of basement and ground floor from ancillary A1 storage to provide one 1 x bedroom self-contained flat with rear terrace area and privacy screening.

Received Date: 10 July 2019

Valid Date: 10 July 2019

Decision Date: 3 September 2019

Decision: Approve with Conditions

12 - HGY/2023/2754

Address: 54 Wightman Road, Hornsey, London, N4 1RU

Proposal: Conversion of existing ground and lower ground floors into two self-contained flats and one self-contained maisonette.

Received Date: 12 October 2023

Valid Date:

Decision Date:

Decision:

ENFORCEMENT CASES (3)

HMO/2022/00535

Enforcement Type: Change of Use - House in Multiple Occupation

Address: 54, Wightman Road, Hornsey, London, N4 1RU

Description: House in Multiple Occupation

Status: Closed

Closed Decision Not Expedient

Closed Date 14 October 2022

HMO/2022/00535

Enforcement Type: Change of Use - House in Multiple Occupation

Address: 54, Wightman Road, Hornsey, London, N4 1RU

Description: House in Multiple Occupation

Status: Closed

Closed Decision Not Expedient

Closed Date 14 October 2022

HMO/2022/00535

Enforcement Type: Change of Use - House in Multiple Occupation

Address: 54, Wightman Road, Hornsey, London, N4 1RU

Description: House in Multiple Occupation
Status: Closed
Closed Decision Not Expedient
Closed Date 14 October 2022

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).

No representations have been received.

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

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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)

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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.”

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 first, second and third floors as shown within this submission have been in use as six flats for a continuous period of 4 or more years.

First Floor: 2 units – front & rear

Second Floor: : 2 units – front & rear

Third Floor: : 2 units – front & rear

Applicant's evidence

Application form states that the use as described commenced 01/09/2015.

Tenancy Agreements

Addresses – 54A:

Tenancy agreement covering period March 2017 to September 2017.

Address listed: '54A – 1 Rear Flat'

Tenancy agreement covering period July 2023 to July 2024

Address listed: '54A – 1 Rear Flat'

Tenancy agreement covering period April 2023 to April 2024

Address listed: '54A – 2 Front Flat'

Tenancy agreement covering period June 2022 to December 2022

Address listed: 'Flat 2 – Front 54A'

Tenancy agreement covering period June 2019 to November 2019

Address listed: '54A-2'

Addresses – 54B:

Tenancy agreement covering period March 2018 to September 2018

Address listed: '54 B1'

Tenancy agreement covering period July 2023 to January 2024

Address listed: '54B1 Rear'

Tenancy agreement covering period July 2009 to January 2010

Address listed: '54B'

Addresses – 54C:

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Tenancy agreement covering period February 2016 to August 2016

Address listed: '54C-3'

Tenancy agreement covering period June 2023 to June 2024

Address listed: '54C-3'

Tenancy agreement covering period July 2023 to January 2024

Address listed: '54C1 Front'

Tenancy agreement covering period July 2017 to January 2018

Address listed: '54C1'

Tenancy agreement covering period September 2022 to February 2023

Address listed: 'Flat 2 Second Floor Front'

Other documents

Notice of Eviction for address 'Flat A-2 First Floor Front' dated 08 June 2022 with eviction date as 15 June 2022

Correspondence dated 26 October 2021 in regard to occupant of 'First Floor, Flat A-2' and 'Basement Front Flat A-2'

VOA records show that the property address have been registered for council tax purposes predating the relevant 4 year period.

Enforcement history reveals that the units have existed as described, confirmed by investigations in 2016.

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 first floor, second floor and third floor has been used as six self-contained flats for a continuous period of four years before the date of this application. Therefore, the sought use is considered to be lawful.