



Officer Report

Application Number:	HGY/2024/0771
Application Type:	Lawful development: Existing use
Address:	196 Archway Road, Hornsey, London, N6 5BB
Proposal:	Use of the ground and lower-ground floor as three separate flats (plus a ground floor commercial unit).
Case Officer:	Sabelle Adjagboni
Valid Date:	19/03/2024
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Applicant:	Mr Dedapo Ladipo
Agent:	Mr Ibi Ekinah

RECOMMENDATION

Approve

PROPOSED DEVELOPMENT AND LOCATION DETAILS

This is an application for a Certificate of lawfulness for the existing use of the property as three separate self-contained residential flat.

The property is located in a conservation area and is locally listed as part of Nos. 200 to 206 (even) Grand Parade.

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

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."

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 building outlined in red on the submitted plan has been in use as three self-contained flats for a continuous period of 4 or more years.

Applicant's evidence

The application form accompanying this application asserts that:

- the use of 196 Archway Road, Hornsey, London, N6 5BB as three self-contained flats commenced on 28/08/2004.

The application is accompanied by the following evidence:

Flat 1: Ground Floor Rear Flat

- Tenancy agreement dated 15th February 2006
- Council tax summons letter dated 9th August 2006
- Council tax bill 2006/2007
- VOA council tax valuation dated 20th mar 2006
- Council tax bill 2006/2007 dated 5th April 2006
- Council tax reminder notice dated 17th May 2006
- Council tax reminder notice dated 19th July 2006
- Haringey council benefits and local taxation division letter dated 18th August 2006
- council tax bill 2006/2007 dated 23rd August 2006
- Council tax bill 2006/2007 dated 1st September 2006
- Council tax cheques dated 1st June 2006 – 1st November 2006
- Council tax reminder notice dated 18th oct 2006
- CTAX receipt dated 5th dec 2006
- Council tax final notice dated 17th January 2007
- Council tax cheques dated 1st dec 2006 – 1st February 2007
- Council tax bill 2006/2007 dated 16th March 2007
- Council tax bill 2007/2008 dated 13th April 2007
- Council tax bill 2007/2008

- Council tax summons letter dated 7th November 2007
- Council tax bill 2007/2008 dated 14th November 2007
- Council tax bill 2008/2009 dated 23rd February 2008
- Council tax bill 2008/2009 dated 1st April 2008
- Summons letter dated 7th November 2007
- Council tax urgent reminder dated 14th January 2008
- Haringey council letter benefits & local taxation dated 27th may 2008
- Council tax bill 2009/2010
- Lease plan dated March 2017
- council tax bill 2018/2019
- Council tax bill – revised bill 2018/2019
- Tenancy agreement dated 25th August 2018
- Erudio student loan letter dated 1st sept 2020
- EDF electrical and gas bill dated 19th oct 2021
- Electricity and gas bill dated 22nd November 2022
- Electricity and gas bill dated 22nd February 2023
- Tenancy agreement dated 1st April 2023
- Electricity and gas bill dated 23rd January 2024

Flat 2

- VOA council tax valuation dated 20th mar 2006
- Council tax bill 2006/2007 date issue 5th April 2006
- Council tax bill 2006/2007 date issue 21st April 2006
- Council tax bill 2006/2007 date issue 24th May 2006
- Council tax reminder notice dated 19th July 2006
- Council tax bill 2006/2007 date issue 9th August 2006
- Council tax bill 2006/2007 dated 4th oct 2006
- Council tax cheques dated 1st May 2006 – 1st mar 2007
- Council tax reminder notice dated 15th November 2006
- Haringey council student exemption letter dated 15th November 2006
- Council tax bill 2007/2008 dated 26th March 2008
- Council tax reminder notice dated 14th May 2008
- Council tax bill 2009/2010 dated 10th July 2009
- Council tax bill 2009/2010
- Council tax bill 2012/2013
- Dapper estates letter dated 14th February 2013
- Lease plan dated March 2017
- Council tax bill 2018/2019
- Tenancy agreement dated 25th march 2018
- Reference letter dated 10th April 2019
- Tenancy agreement dated 14th may 2019
- Tenancy agreement dated 6th June 2020
- British gas check letter dated 27th oct 2020
- Tenancy confirmation letter dated 15th February 2021
- Tenancy agreement dated 1st February 2021
- EDF electricity and gas bill dated 31st August 2021
- EDF energy bill 16th September 2021
- EDF energy bill 23rd September 2021
- EDF electricity and gas bill dated 29th September 2021

- EDF electricity and gas bill dated 19th October 2021
- Tenancy agreement dated 1st September 2021
- Email council tax – Haringey council 24th February 2022
- Tenancy agreement dated 17th May 2022
- Thames water bill dated 28th November 2022
- Tenancy agreement dated 20th May 2023
- Thames water bill dated 22nd May 2023
- Council tax reminder notice dated 25th July 2023
- Gas bill dated 8th November 2023
- Electricity and gas bill dated 12th dec 2023
- Council tax bill 2023/2024

Flat 3 – (maisonette)

- VOA council tax valuation dated 20th March 2006
- Council tax formal notice letter dated 10th August 2006
- Council tax bill 2006/2007 dated 5th April 2006
- Council tax bill 2006/2007 dated 17th May 2006
- Council tax cheques dated 1st May 2006 – 1st August 2006
- Council tax summons letter dated 12th July 2006
- Haringey council letter urban environment dated 15th November 2007
- Council tax bill 2007/2008 dated 24th February 2007
- Council tax bill 2008/2009 dated 23rd February 2008
- Council tax bill 2008/2009 dated 1st April 2008
- Council tax bill 2008/2009 dated 4th June 2008
- Council tax 2009/2010 dated 15th July 2009
- Council tax bill 2009/2010 dated 4th sept 2009
- Council tax bill 2010/2011
- Council tax bill 2011/2012
- Tenancy agreement dated 14th October 2012
- Lease plan dated March 2017
- Tenancy confirmation letter dated 3rd November 2020
- PayPal credit letter dated 13th July 2021
- Email council tax – Haringey council 2nd February 2022
- Tenancy agreement dated 1st February 2022
- Email council tax – gov.uk 22nd February 2022
- Electoral registration letter dated 24th June 2022
- British gas check letter dated 4th November 2022
- Tenancy agreement dated 1st February 2023
- Tenancy agreement dated 1st February 2024
- Council tax bill 2023/2024

196/B Archway Road

- Barnes & Partners Solicitors letter dated 16th April 2003
- Land registry copy dated 25th June 2003
- Land registry copy dated 1st July 2003
- Barnes & Partners Solicitors letter dated 31st July 2003
- Summers Solicitor letter of agreement for lease of rear ground floor and basement dated 2003
- Barnes & Partners Solicitors letter dated 23rd sept 2004

- Land registry dated 5th November 2004
- Barnes & Partners Solicitors letter with land registry copy dated 9th November 2004
- Haringey council finance services letter dated 8th February 2005
- EDF energy letter dated July 2006
- Haringey council benefits and local taxation division letter dated 16th August 2006
- Council tax cheques dated 1st June 2006 1st October 2006 – 1st February 2007
- Magnaclean warranty details dated 6th February 2013
- Minor electrical installation works certificate dated 9th January 2018
- Application for naming and numbering letter – Haringey council dated 9th November 2018
- Email between Towergate and Dapper Estate dated 12th March 2019
- British gas letter dated 30th September 2021
- British gas letter dated 19th October 2021
- EDF letter dated 4th Nov 2021
- British gas energy bill dated 8th January 2022
- British gas energy bill dated 19th January 2022
- British gas energy bill dated 5th April 2022
- British gas letter dated 18th November 2021
- BWLEGAL letter – British gas dated 9th September 2022
- BWLEGAL letter – British gas dated 21st October 2022
- Energy bill dated 2nd November 2022
- UK Power Networks dated 9th October 2023
- Landlord declaration letter

Officer comment:

This application was supported by a wide range of documents that demonstrate the use of the site as flats from 2006 to present. Although there are gaps in the timeline, the continuous use as flats from 2020 to 2024 is evident for each flat.

Conclusion

The evidence presented to substantiate the statement of case is considered comprehensive in nature. On the balance of probability therefore it is considered that the evidence submitted by the applicant precisely and unambiguously demonstrates that 196 Archway Road has been used as three self-contained flats for a continuous period of over 4 years before the date of this application without planning permission.

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 196 Archway Road, N6 5BB has been used as three self-contained flats on the ground, first, and second floors for a continuous period of over 4 years before the date of this application. Therefore, the sought use is considered to be lawful.

