

West Area Planning Committee

22nd July 2014

Application Number: 14/01255/CEU

Decision Due by: 10th July 2014

Proposal: Application to certify that the existing subdivision of dwelling into 1 x 1-bed flat and 1 x 2-bed maisonette is lawful development

Site Address: 125 Harefields , **Appendix 1.**

Ward: Wolvercote Ward

Agent: N/A

Applicant: Mr Michael Gotch

This application is presented to the West Area Planning Committee as the applicant is an elected member of the Council.

Recommendation:

APPLICATION BE APPROVED

For the following reasons:

- 1 That, on the balance of probabilities, the evidence submitted by the applicant and that available to the Council from its own records, it indicates that the use has been continuous for at least a period of four years prior to the date upon which the application was registered.
- 2 The use does not constitute a contravention of any of the requirements of any enforcement notice in force at the date of the application.
- 3 No enforcement action may be taken in respect of the use because the time for enforcement action has expired.

Relevant Site History:

- 69/21759/A_H - Erection of 6 no maisonettes and 92 no. town houses (1-159 (odd) and 4-38 (even) Harefields).. PER 22nd July 1967.
- 13/00219/INV-Enforcement Enquiry; Alleged sub division of property into two flats- Closed as immune to due passage of time 30.9.13 suggested an application for Certificate of Lawful Use be applied for.

- 14/00594/DALBN- Alterations to improve the existing means of escape to two unauthorised flats (this application does not constitute the legalization of this unauthorised conversion or demonstrate that they meet Building Regulations). Closed 6.5.14
- Records of service requests from other council departments dated back to 2012.

Officers Assessment:

Site:

1. The application site is a three storey terraced town house situated in a cul de sac off of Harefields, in north Oxford. The property was originally a three/four bedroomed property split over three floors, but has been split into two separate dwellings now known as 125a Harefields and 125b Harefields. See site plan attached at **Appendix 1**.

Consideration:

2. This application is submitted to ascertain whether the use of the property known as 125 Harefields as 1 x 1-bed flat and 1 x 2-bed maisonette is lawful. The property has been subdivided some years ago, without planning permission and this application is to ascertain whether it has been used in that same way for 4 continuous years prior to the application date, which would, due to the passage of time now deem it 'lawful development'.
3. The application is premised on the basis that the use applied for, in this case the use of the property as two separate dwellings, has been consistent and in an un- interrupted use for a period of at least four years prior to the application date.
4. Applications of this type for a Certificate of Lawfulness for an Existing Use have to be determined on the basis of fact and are not tested against planning policies or any planning 'merits' of the case. With regard to section 191 of the Town & Country Planning Act 1990 (as amended), a use of land will be lawful when:
 - no enforcement action may then be taken (because there has been no development or development didn't require permission or because the time for taking enforcement action has expired or for any other reason)
 - it doesn't constitute contravention of the requirements of any enforcement action.
5. As indicated above, the planning merits are not relevant or applicable in this case and therefore the planning policies against which a planning application would normally be assessed are not set out in this report.

Information/evidence provided with the application

6. The evidence supplied by the applicant comes in the form of copies of floor plans indicating the layout of the two flats, a signed statement from a previous tenant and a copy of a dated Council Tax bill for the period March 2007-January 2008. The Council also have records of the planning history for the site and Council officer's own observations.
7. Officers have inspected the premises in question and noted that whilst there is only one door to the property at ground floor at the front of the property, there is a doorbell for the maisonette '125a Harefields' and two electricity meters outside the property. Building Control officers also have visited the premises and noted the separation of the ground floor flat from the maisonette above.
8. The Council's records of planning history for the site show that there has not been any intervening applications or uses between the granting of the permission for the Harefields development in 1967 and the current application date. There are records of specific service requests from the tenant/s in 2012 indicating the property was in use as specified in this application, at this time.
9. The floor plans show that the ground floor flat has a living/dining room, kitchen, shower room and bedroom with the mainsonette flat above having a kitchen and dining living room on the middle floor of the property with two bedrooms and a bathroom on the top (second) floor.
10. The application is supported by a signed statement from a previous tenant who states they moved in to the property in June 1994, a period well in excess of the four years required for the purposes of this application to demonstrate the use as two separate flats.
11. The applicant has also provided a copy of a council tax bill dated March 2007 for the property named 125B Harefields, with the landlord named as the applicant. This indicates that the property has been subdivided in this way since 2007, again in excess of the four year period from the date of the application.
12. No public comments have been received either in support of, or to refute the applicants claims and evidence provided in this application.

Conclusion

13. It is considered that the onus of proof has been discharged and based on the evidence submitted with, and evidence gained in support of the application it does suggest that the property known as 125 Harefields has been subdivided to create 1x1 bed flat and 1x2 bed maisonette for a period in excess of 4 years prior to the application date.
14. On the balance of probabilities therefore it does appear that 125 Harefields has been subdivided into two flats for a period of four years prior to the

application date, with no differing use in the intervening period. The use does not contravene any requirements of any valid enforcement notice and the time for which the local authority could take enforcement action has now expired.

15. Having regard to the requirements of section 191 of the Town & Country Planning Act 1990 (as amended), officers consider the application for the certificate of lawful use; to certify that the existing subdivision of dwelling into 1x1 bed flat and 1x2 bed maisonette is lawful development should be approved.

Background Papers: 14/01255/CEU.

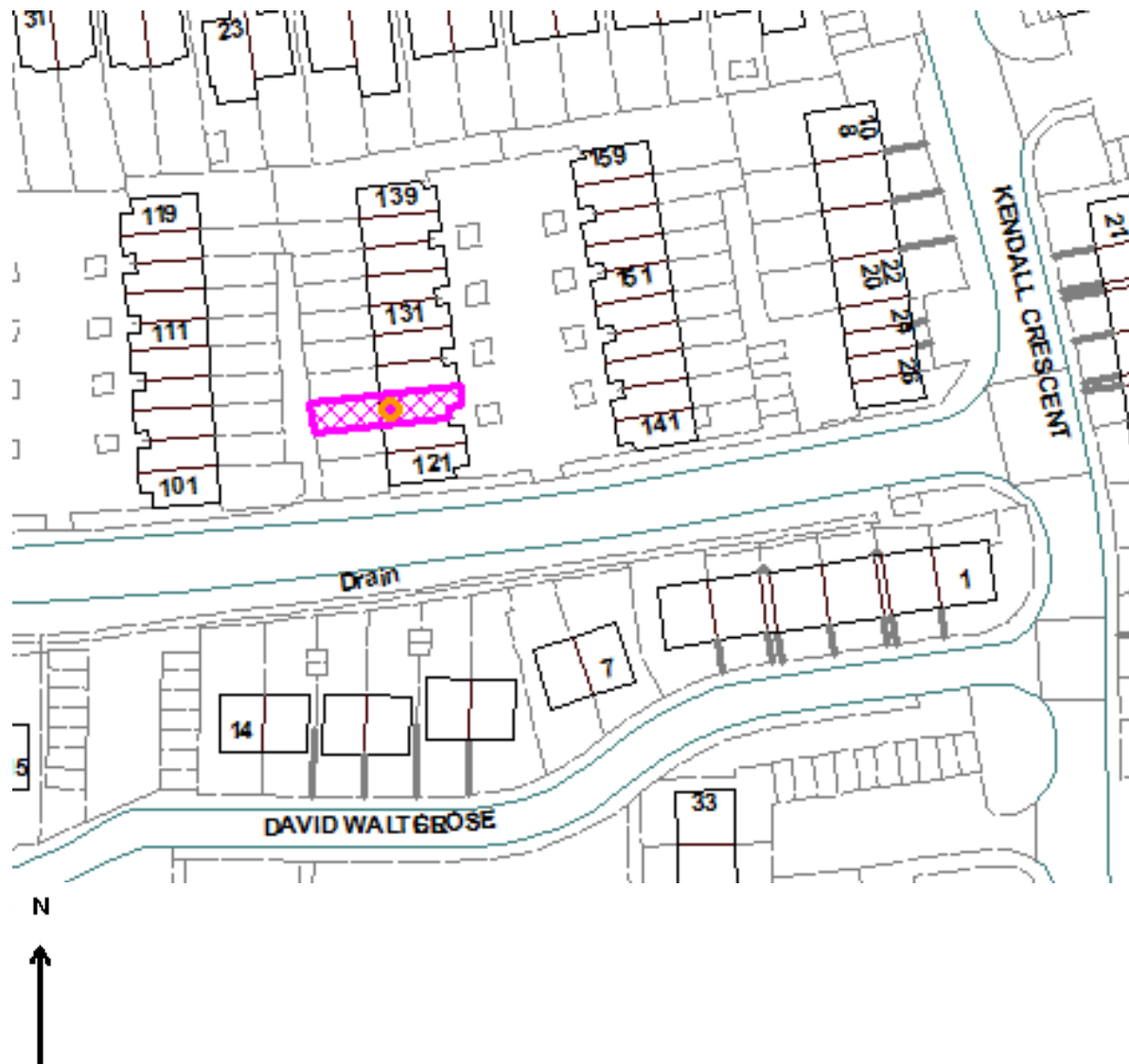
Contact Officer: Hannah Wiseman

Extension: 2241

Date: 4th July 2014

Appendix 1

14/01255/CEU - 125 Harefields



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Ordnance Survey 100019348

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