

Application No. 13/02400/LE - South Lodge, 3 Kent Gate Way, Croydon, CR0 5AR

1. SUMMARY

- 1.1 This report concerns an:
Application for a lawful development certificate (existing) for:

Use as dwelling House

2. DECISION

2.1 Certificate Granted

Grounds for Determination:-

1. The use claimed has continued uninterrupted for the last four years

3. BACKGROUND

(a) Proposal

- 3.1 A lawful development certificate has been sought for the continued use as a dwellinghouse.

- 3.2 The application seeks to prove the residential use of the dwellinghouse for more than 4 years (since 1979)

(b) Site Description

- 3.3 The building is located on western side of Kent Gate Way, within the grounds of Addington Recreation Ground. It is Locally Listed Building, located within Metropolitan Green Belt and a Local View. It is a two storey detached building with private garden and parking space. The surrounding area consists of wider Green Belt land, transport networks of London Distributor roads Kent Gate Way, Gravel Hill and tramlink lines, and also residential dwellings to the south on Gravel Hill.

(c) Relevant Planning History

- 3.4 None relevant to current application.

4 CONSULTATIONS

- 4.1 No consultations undertaken.

5 CONSIDERATIONS

- 5.1 The principal issues relate to:
- a. Whether the applicant has sufficiently demonstrated the residential use for over 4 years.
- 5.2 On time limit for enforcement action Section 17B (2) of the Planning & Compensation Act 1991 states that “where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach”.
- 5.3 Circular 10/97 (Annex 8) sets out policy on lawfulness and LDC’s. Paragraph 8.12 of Annex 8 states that “the onus of proof in an LDC application is firmly on the applicant.” Paragraph 8.15 states that “where the burden of proof is on the appellant, the courts have held that the relevant test of the evidence on such matters is “the balance of probability”.” In order for the LPA to grant an LDC the applicant’s evidence must be “sufficiently precise and unambiguous to justify the grant of a certificate “on the balance of probability”.”
- 5.4 The application form states that the property has been in occupation as a single residential dwelling since 1979. It was initially on a service tenancy. Since 1993 this changed to a secure tenancy. The tenant moved out in June 2013. The application has included records of Council Tax payments demonstrating continued residential use for over four years.
- 5.5 The evidence is considered satisfactory.

6 OTHER MATTERS

- 6.1 All other planning considerations including equalities have been taken into account.

Case Officer: Greg Blaquiere Tel: 020 8726 6800
Contact Officer: Philip Mills Tel: 020 8760 5419