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Supporting Statement

Lawful Development Certificate for 36C The Hill, Northfleet, Gravesend,
DA11 9EX.

May 2023
MG/JH/30736

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Appendix 1 – Photos of completed development for marketing purposes.

Appendix 2 – Rent Statements 36C The Hill

Appendix 3 – Rent Statements The Studio 36C

Appendix 4 – Your Move Letter

1 Overview

1.1 Introduction

1.1.1 This Statement is submitted in support of a Lawful Development Certificate Application on behalf of our client Mr. Robert Williams. A Lawful Development Certificate is requested to establish the lawfulness of the sub-division of 36C The Hill, Northfleet, Gravesend, DA11 9EX to no.2 dwellings.

1.1.2 The application is therefore described as such:

"Certificate of Lawfulness application made under Section 191 of the Town and Country Planning Act 1990 to Establish the lawfulness of the existing no.2 dwellings at 36C The Hill, DA11 9EX."

1.1.3 This application is accompanied by the following documents and evidence:

Document Name	Author
Completed Application Form	DHA Planning
Supporting Statement	DHA Planning
Affidavit	
Affidavit	
Letting Confirmation Letter	Your Move
Proposed Elevations	DHA Urban Design
Site Location Plan	DHA Urban Design
Invoices and Statements of Account	Your Move
Photographs of completed work	Robert Williams

1.2 Site Context

1.2.1 The Site comprises the sub-divided dwelling '36C The Hill'. It is located within the Borough of Gravesham, with the site being accessed via The Hill, Northfleet.

1.2.2 After the sub-division, the existing properties are '36C The Hill' and 'The Studio 36C The Hill'.

1.2.3 This LDC application is to confirm that the sub-division of 36C The Hill is lawful. The Google Earth Image below shows the location of the site.



Figure 1: Location of 36C The Hill (Courtesy of Google Earth)

1.3 Site History

1.3.1 According to Gravesham Borough Council's online planning application database search, the site has been the subject of the following relevant recent previous planning applications:

Application Reference	Description	Decision
19850412	Change of use of first floor from residential to offices	Permission Granted October 1985
19890389	Erection of single storey rear extension to form enlarged showroom, store, workshop and kitchen.	Permission Granted June 1989
19970596	Installation of a new shop front.	Permission Granted October 1997
20120500	Conversion of first floor from offices to a two bedroom self contained flat.	Permission Granted August 2012
20121030	Application for non-material amendment to planning permission reference number 20120500 to alter position of access staircase, change proposal to a one bedroom flat and use of rooms on first floor as ancillary to ground floor shop.	Permission Granted January 2013
20130885	*REVISED DESCRIPTION* Change of use of shop with ancillary living accommodation at the rear into two, one bedroom self-contained flats, alterations to ground floor front elevation; installation of new door and windows in side elevation and new front gate and railings at the front.	Refused December 2013
20140389	Change of use of part of shop with ancillary living accommodation at the rear into a one bedroom self-contained flat and a self-contained bedsit, installation of four new doors and a window in the side elevation and erection of a 1.8m high close boarded fence to the rear and southern side elevations.	Permission Granted 2014

1.4 Procedural Matters

1.4.1 The National Planning Practice Guidance (NPPG) confirms that uses and operations are lawful if enforcement action has not been taken against them and they are not in contravention of any enforcement notice that is in force. For uses to be deemed lawful, the time limits are as follows:

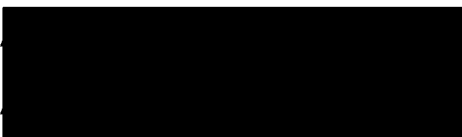
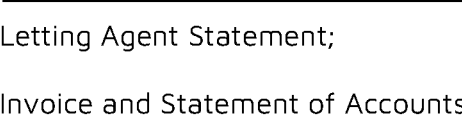
- Four years for building, engineering, mining, or other operations in, on, or over or under land, without planning permission. This development becomes immune from enforcement action four years after operations are substantially completed;
- Four years for the change of use of a building, or part of a building, to use as a single dwelling house. Once the unauthorised use has continued for four years without enforcement action being taken, the development will be immune from any further enforcement action; and
- Ten years for all other development. The ten year period runs from the date that the breach of planning control was committed.

1.4.2 Whilst the burden of proof in such applications lies firmly with the applicant, it is worth highlighting that the relevant test is the "balance of probability" rather than the more onerous "beyond reasonable doubt" test under criminal law.

1.4.3 As set out within the NPPG, a Local Planning Authority will need to consider whether, on the facts of the case and relevant planning law, this specific matter is or would be lawful. We note that the planning merits are not relevant at any stage in this particular application process.

1.5 Case on Behalf of the Applicant

1.5.1 The main issue for consideration in relation to this application is to establish whether the works had taken place in excess of 4 years prior to the date of this application. To demonstrate this, the following evidence is submitted:

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- Letting Agent Statement;
- Invoice and Statement of Accounts; and
- Applicant photographic evidence.

1.5.2 In order to evidence the above, we attach the following affidavits within the submitted evidence:

- (1) Sworn Declaration of Robert Williams who has been owner of the property since 2016 and has let out both '36C The Hill' and 'Studio 36C The Hill' since 2018.

- (2) Sworn Declaration of [REDACTED] who assisted The Applicant with the construction work to sub-divide the property, sourcing appropriate contractors and who visited The Site on a weekly basis during this time.

1.6 Applicants Photographic Evidence

- 1.6.1 Submitted with this application (Appendix 1) is a collection of photos taken at the time of when the 36C The Hill was sub-divided. The photos were taken after works were completed to market both properties for letting purposes.

- 1.6.2 The photographs relate to The Studio.

1.7 Invoices and Statements of Account

- 1.7.1 Submitted with this application (Appendix 2 and 3) are invoices and statements of account which confirm both '36C The Hill' and 'Studio 36C The Hill' being continuously let since 2018.

- 1.7.2 This demonstrates that both properties have been rented for a continuous period in excess of four years.

1.8 Letting Agent Statement

- 1.8.1 The letting agent has, at Appendix 4, provided a letter confirming Robert Williams as a landlord for the properties of '36 The Hill' and 'Studio 36C The Hill' since August 2018 when Your Move were instructed to provide letting services for both properties. The letter confirms that both properties have been continuously let since 2018, after the first instruction.

1.9 Summary and Conclusion

- 1.9.1 The above and submitted evidence clearly sets out that '36C The Hill' and 'Studio, 36C The Hill' have existed in situ and remained in use, for a period in excess of 4 years. To reiterate, for a use to become lawful, the time limits are as follows:

- Four years for building, engineering, mining, or other operations in, on, or over or under land, without planning permission. This development becomes immune from enforcement action four years after operations are substantially completed;
- Four years for the change of use of a building, or part of a building, to use as a single dwelling house. Once the unauthorised use has continued for four years without enforcement action being taken, the development will be immune from any further enforcement action; and
- Ten years for all other development. The ten year period runs from the date that the breach of planning control was committed.

- 1.9.2 In planning terms, once these time limits have passed, the development is considered to be lawful.

1.10 Conclusion

- 1.10.1 In the circumstances as set out above, and in light of the presented evidence, it is concluded that the development as described above is Lawful, such that it has become immune to enforcement action.

APPENDIX

1













