

# PLANNING REPORT

Printed for officer by  
 Sukhdeep Jhooti On 19 January 2022

## Application reference: 22/0009/ES191 BARNES WARD

| Date application received | Date made valid | Target report date | 8 Week date |
|---------------------------|-----------------|--------------------|-------------|
| 04.01.2022                | 10.01.2022      | 07.03.2022         | 07.03.2022  |

**Site:**

335 - 337 Lonsdale Road, Barnes, London,

**Proposal:**

Use of property as a single family dwelling house

Status: Pending Decision (If status = HOLD please check that all is OK before you proceed any further with this application)

**APPLICANT NAME**

Mr & Mrs Shepherd  
 335- 337, Lonsdale Road  
 Barnes  
 London  
 SW13 9PY

**AGENT NAME**

Adam Hargreaves  
 340 Old York Road  
 London  
 SW18 1SS

**DC Site Notice:** printed on and posted on and due to expire on

**Consultations:**

**Internal/External:**

**Consultee**

**Expiry Date**

**Neighbours:**

-

**History: Development Management, Appeals, Building Control, Enforcements:**

Development Management

Status: GTD

Date:21/08/1979

Application:79/0299

Alterations to front roof elevation and erection of rear roof extension to form additional accommodation.

Development Management

Status: INSFEE

Date:

Application:21/1542/FUL

Rear dormer roof extension, replacement windows to front and rear elevations, removal of chimney to rear, installation of patio doors to rear elevation.

Development Management

Status: PDE

Date:

Application:22/0009/ES191

Use of property as a single family dwelling house

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | <b>22/0009/ES191</b>                                     |
| <b>Address</b>            | <b>335 - 337 Lonsdale Road<br/>Barnes<br/>London</b>     |
| <b>Proposal</b>           | <b>Use of property as a single-family dwelling house</b> |
| <b>Contact Officer</b>    | <b>Sukhdeep Jhooti</b>                                   |

## 1. Introduction

Section 171B of the Town and Country Planning Act 1990 (as amended) states: 'Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.'

Further, '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.'

And, 'In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.'

The onus of proof in such applications rests firmly with the applicant. The Courts have held that the relevant test of the evidence on such matters is 'the balance of probability'.

The applicant has submitted an application for a Certificate of Lawful Development (Existing). In assessing this application, the Council is making a determination of law as to whether or not the proposed development complies with Section 171B of the Town and Country Planning Act 1990). Issues such as the policies contained in the Council's adopted Richmond Local Plan (2018) are not to be taken into consideration as the decision is based on fact and not on policy grounds.

## 2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

The application site comprises a two-storey, mid-terrace property which forms part of a terrace.

The area is predominantly residential in character. The application site is within the Barnes Green Conservation Area and within Floodzones 2 and 3.

## 3. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Lawful development certificate application (existing) for use of property as a single-family dwelling house.

The scheme seeks confirmation in the form of a lawful development certificate that the property has been in use as a single dwellinghouse.

The comprehensive list of planning history can be found above however the most relevant planning history is as follows:

- **79/0299** – Alterations to front roof elevation and erection of rear roof extension to form additional accommodation. **Granted Permission.**

## 4. CONSULTATIONS CARRIED OUT

This is an application for a Certificate of Lawful Development (Existing), which is a request to the Council to confirm that the development as specified does not require an application for planning permission to be submitted to the Council. In assessing this application, the Council is making a determination of law, and as such it is not considered to be necessary to undertake a public consultation.

## 5. PROFESSIONAL COMMENTS

### Legislation

Section 171B of the Town and Country Planning Act 1990 (as amended) states that: Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on over or under land, no enforcement action may be taken after

the end of the period of four years beginning with the date on which the operations were substantially complete. In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. The onus of proof in such applications is firmly on the application. The Courts have held that the relevant test of the evidence on such matters is 'the balance of probability'.

#### Consideration

This application is made on the basis that the building has been continuously used as a single family dwellinghouse for more than four years.

The applicant has submitted the following evidence in relation to the continuous use of the building as a dwelling on 4 January 2022:

- HM Land Registry Title Register for 335 and 337 Lonsdale Road as one property
- HM Land Registry Title Register for 297-299 Lonsdale Road as one property
- HM Land Registry Title Register for 289 and 291 Lonsdale Road as one property
- Email dated 6 December from Mr J Bower brother of the deceased Mrs Ann Cochrane who previously resided at 335-337 Lonsdale Road. The letter supports the applicants claim that 335-337 is one property (single house) for the following reasons
  - 1) Mrs Cochrane purchased No. 335 at the end of the sixties/early seventies and purchased No. 337 three or four years later.
  - 2) A door was installed in the partition at the bottom of the stairs, and she arranged with Richmond Council for it to be considered as one property for payment of Rates.
  - 3) Mrs Cochrane changed her living arrangements to make use of No. 337.
  - 4) The 337 front door was never used, the key was lost for several years, all mail was addressed to 335.
  - 5) Mr J Bower can confirm with absolutely certainty that 335/337 was used as one single dwellinghouse for Mrs Ann Cochrane, Mr J Bower's late sister.
- Electricity bill addressed to 335 Lonsdale Road dated 29 October 2021
- Email from the Valuation Office Agency dated 1 December 2021 confirming that No. 335 has been in Council tax band G with an effective date of 1 April 1993
- Planning statement dated 21 December 2021 which states the following
  - 1) The property is constructed as a maisonette
  - 2) Ground floor of the property has the house number 337 Lonsdale Road
  - 3) First floor and loft of the property has the house number 335 Lonsdale Road
  - 4) Property forms part of a terrace of similar maisonettes and is flanked to its left by 331-333 and to its right by 339-341 Lonsdale Road
  - 5) The freehold title of the property is registered at the Land Registry as 335-337 Lonsdale Road under a single title number SY239142.
  - 6) No leasehold titles are registered against the property for either 335 or 337 Lonsdale Road
  - 7) The property retains the original layout of the two dwellings with separate front doors, a kitchen and bathroom on each level, separate electricity supply and circuits and separate heating systems.
  - 8) However, only 335 Lonsdale Road is registered for council tax purposes under band G and the water supply bill is addressed to 335 Lonsdale Road.
  - 9) The applicants under the Planning Application acquired the freehold title to the property from Ann Cochrane (the former owner) on 1 February 2021 and have lived in the property since then
  - 10) The former owner acquired the property in 1979. A copy of the former owner's title to the property has been provided under exhibit 2 of this statement.
  - 11) The applicants were the former owners of 333 Lonsdale Road from 5 August 2004 to 1 February 2021 and knew the former owner during that time. To the best of their knowledge, the former owner was the sole occupier of the property during that period and did not let or licence the use of any part of the property to any other persons.
  - 12) The applicants have obtained an email from John Bower, who is the brother and attorney for the former owner. The email corroborates that the property was used by the former owner as single dwelling during the period when she owned both 335 and 337 Lonsdale Road.
  - 13) There is clear correlation of council tax band G with other properties in the terrace on Lonsdale Road where the ground and upper floors of a maisonette are under held a single freehold title, with no leasehold interests.
  - 14) The freehold title to 331-333 Lonsdale Road is registered under the title number SY240567
  - 15) Freehold title to 339-341 Lonsdale Road is registered under the title number SY235975.
  - 16) The position of 335 Lonsdale Road in relation to council tax banding is equivalent to 2397 and 289 Lonsdale Road. Copies of the title to 297 and 289 Lonsdale Road have been provided under exhibits 4 and 5 of the planning statement submitted.

17) The applicants have received confirmation by email from the VOA that the property is in council band G with an effective date of 1 April 1993. This being consistent with the statement in the email from John Bower (brother of Former Owner) that former owner 'arranged with Richmond Council for it to be considered as one property for payment of Rates'.

- Site Location Plan received on 4 January (drawing number L01). The redline boundary covers both 335 and 337 Lonsdale Road.
- Existing Floor Plans (drawing number 101); Existing Elevations (drawing number 201); Existing Section AA (drawing number 301); Existing Section BB (drawing number 302) received on 12 January 2022.
- Statutory Declaration from Mr Thomas Charles Ryley Shepherd, of 335-337 Lonsdale Road, Barnes, London SW13, dated 24 January 2022 received on 25 January 2022. Mr Shepherd in this legal document confirms to the best of his knowledge and belief that the subject property (335-337 Lonsdale Road) has been used as one property for at least the last ten consecutive years.

The Local Planning Authority does not have evidence to contradict the property being used as a single residential unit.

Sufficient evidence has been provided confirming that the building has been in residential use as a single dwelling continually for over four years.

**Conclusion and recommendation**

Therefore, given the above it is considered that 'on the balance of probability' the use of 335-337 Road as a single family dwellinghouse (C3 Residential Unit) has been subsisted continuously for at least four years.

**7. RECOMMENDATION**

**Grant Certificate**

**Recommendation:**

The determination of this application falls within the scope of Officer delegated powers ~~YES~~ NO

**I therefore recommend the following:**

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

This application is CIL liable  YES\*  NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement  YES\*  NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)  YES  NO

This application has representations on file  YES  NO

Case Officer (Initials): SJH

Dated: 25.01.2022

**I agree the recommendation:**

Principal Planner

Dated: .....25/1/22.....

Official

This application has been subject to representations that are contrary to the officer recommendation. The Head of Development Management has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

Head of Development Management: .....

Dated: .....