

LDC Report		14/06/2023	
Officer		Application Number	
Edward Hodgson		2023/1753/P	
Application Address		Recommendation	
Sovereign House 19-23 Fitzroy Street London W1T 4BP			
1st Signature		2nd Signature (if refusal)	
Proposal			
Use of First Floor as Class E			
<p><u>Application site</u></p> <p>Sovereign House is a seven storey with basement property located on the junction between Maple Street and Fitzroy Street. It is neither listed nor located within a conservation area.</p> <p><u>Relevant planning history</u></p> <p>2009/2797/P - Change of use of ground floor unit from Class A2 use (financial) to alternative uses of Class B1 (office), Class A1 (retail) and Class A2 use. Granted - 24/08/2009</p> <p>PS9905100 - External alterations to the ground and first floor elevation on the Cleveland Mews facade, involving the insertion of powder coated aluminium louvres, in place of the existing windows, brick panels and door, as shown by drawing numbers S02, TP03 and plant specification. Granted - 21/12/1999</p> <p><u>Assessment</u></p> <p>This application seeks a Certificate of Lawfulness (Existing) for the use of the first floor of the building as office space (Class E).</p> <p>The applicant is required to demonstrate that the existing use of the land is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990. For the purposes of the Act, uses and operations are lawful at any time if:</p> <p>(a) <i>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</i></p> <p>(b) <i>they do not constitute a contravention of any of the requirements of any enforcement notice then in force.</i></p>			

The applicant is required to demonstrate, on balance of probability that the existing office use has existed for a period of 10 or more years.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- Site Location Plan at 1:2500
- Cover letter, dated 05/04/2023, outlining the recent business operations on the first floor
- Letting History from 2009 to 2021 (in cover letter)
- Live Valuation Report, dated 04/01/2016
- Photographic Evidence from 2008 to 2021.
- Officer Delegated Report for application 2009/2797/P dated 24/08/2009.

The cover letter states that the ground and first floors of the building were used as car showrooms historically, and later occupied as an office for a bank until 2007. The officer delegated report for application 2009/2797/P dated 24/08/2009 states that the 'it is understood that the fourth to the seventh floors of the property are in residential use and the remaining floors are in office use'. There is no further planning history since the 2009 application. In addition, the letting history indicates that the first floor has been occupied as offices for a number of different businesses between 2009 and 2021 and is currently occupied as office space. In addition, a Live Valuation Report from 2016 states that the first floor was in use as an office. The photographic evidence submitted indicates that the first floor has been in use as an office between 2008 to 2021.

Council's Evidence

There is no recent planning history or enforcement action at the application site. The Council does not have any evidence to contradict the evidence provided by the applicant.

Assessment

A certificate of lawfulness for an existing use has been submitted to establish whether the use of the first floor commercial, business and service use (Class E), is lawful.

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the "balance of probability", and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant's version of events, there is no good reason to refuse the application provided the applicant's evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The certificate relates to the first-floor level of the building. This floor appears to have been in use as an office space for a period of more than 10 years.

The Council does not have any evidence to contradict or undermine the applicant's version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability', the first-floor level has existed in office use (Class E) for a period of more than 10 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Grant Certificate