

Delegated Report		Analysis sheet	Expiry Date:	27/09/2023
		N/A	Consultation Expiry Date:	N/A
Officer			Application Number(s)	
Alex Kresovic			2023/3173/P	
Application Address			Drawing Numbers	
47 Great Russell Street London WC1B 3PB			Refer to Draft Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Use of the 2 ground floor rooms for residential purposes for a continuous period of more than 4 years as part of upper floors as use as a single dwelling house (Use Class C3)				
Recommendation(s):	Grant Certificate of Lawfulness (Existing)			
Application Type:	Certificate of Lawfulness (Existing)			
Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				

Site Description

The application site is located within the Bloomsbury Conservation Area. It is a Grade II listed building which is part of a Grade II listed terrace of houses with shops or other commercial uses on the ground floor and mainly residential on the upper floors. Nos. 44-47 was constructed around the turn of the 18th Century and forms part of a 'perimeter block' of terraced buildings fronting Great Russell Street, Coptic Street, Little Russell Street and Museum Street.

Relevant History

APPLICATION SITE:

2012/1356/P - Change of use of front portion of ground floor level from shop (Class A1) to additional residential accommodation (Class C3). Refused 24 April 2012

2013/3219/New – An appeal was lodged by the appellant against non-determination of a planning application that had been submitted on 24/05/2013 for change of use of 34.5 sq. m of ground floor from art gallery (Class D1) to residential (Class C3). The Inspector dismissed the appeal on 21/02/2014 (APP/X5210/A/13/2202236).

Assessment

Background

The certificate seeks to demonstrate that on the balance of probability the front two rooms at ground floor level of 47 Great Russell Street have been in use for a continuous period of more than 4 years as part of the upper floors of the building as a single family dwelling house (Use Class C3) before the date of the application, such that its continued use would not require planning permission.

Applicant's Evidence

1. Ground floor plan (for reference purposes only) denoting the space which has been in use for residential purposes in excess of four years;
2. Statutory Declarations from R. England, signed 30.06.2023, A. Ashot, signed 14.07.2023, A. Szkudlarek, signed 18.07.2023, K. Smith, signed 12.07.2023, S. Kempadoo, signed 12.07.2023, S. McCarthy, signed 14.07.2023, and C. Desmons, signed 13.07.2023.
3. Council tax records from 2018; and
4. TV license bills from 2021

Council's evidence

Judging the evidence submitted and the history of the site, officers are satisfied that the front two rooms at ground floor level have been in use for a continuous period of more than 4 years as part of the upper floors of the building as a single family dwelling house (Use Class C3).

Assessment

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 (Planning Practise Guidance para. 006), 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 application for the certificate relates to the existing use or operation of the front two rooms at ground floor level of 47 Great Russell Street as part of the upper floors of the building as a single family dwelling house (Use Class C3) have been in use for a continuous period of more than 4 years. The application is made on the basis that the use is lawful because it is now immune from enforcement action because it has occurred for a continuous period of more than four years, before the date of the application – in other words since at least 02 August 2019 ("the relevant period").

The Council does not have any evidence to contradict or undermine the applicant's version of events. The supporting information submitted in support of the application maintains that the front two rooms at ground floor level of 47 Great Russell Street, London, WC1B 3PB have been in use as self-contained flat (Use Class C3), as part of the wider single family dwelling house, for a consecutive period of at least four years before the date of the application.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' that the front two rooms at ground floor level have been in use as part of the wider single family dwelling house, for a consecutive period of at least four years before the date of the application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Conclusion

Recommendation: Grant Certificate.