

LDC Report (Existing)		
Officer	Application Number	
Edward Hodgson	2022/2984/P	
Application Address	Recommendation	
Aradco House 128 - 134 Cleveland Street London W1T 6AB	Grant Certificate of Lawfulness (Existing)	
Proposal		
Use of 4th floor as commercial space Class E.		
<u>Application site</u>		
<p>Aradco House, located at 128-134 Cleveland Street, is a four-storey building with a mansard roof extension located on the junction with Cleveland Street and Warren Street. It is located within the Fitzroy Square Conservation Area and located adjacent to nos. 30-34 Warren Street which are Grade II listed, however the application site itself is not listed.</p>		
<u>Relevant planning history</u>		
<p>9000334 - The erection of a fourth floor residential unit ancillary to existing offices and a rear extension (basement to third floors) with terraces. In addition external alterations to existing façade. Granted - 22/11/1990</p>		
<p>31056(R) - The erection of an additional floor (4th floor) to form ancillary residential accommodation and the installation of ground floor shop frontages on both the Cleveland Street and Warren Street elevations. Granted - 09/01/1981</p>		
<u>Applicant's Evidence</u>		
The applicant has submitted the following information in support of the application:		
<ul style="list-style-type: none"> • Site Location Plan at 1:2500 • Cover letter • Statutory Declaration • Business Rates Bill period between 01/04/2015 to 31/03/2016 		
<p>The statutory declaration states that the current freeholders of the property purchased the property in 1998 and confirm that the fourth floor has been used as an office since then. It also states that the space was likely used as an office since 1993, notwithstanding the permissions granted at the site in 1981 and 1990. A business rates bill from 2018 shows that business rates were being paid at least between 2015 and 2016.</p>		

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.

The Council Tax records indicate that the Council Tax band was deleted in 2002 for a fourth floor flat:

Property information for

FLAT 4TH FLR 128/134, CLEVELAND STREET, LONDON, W1T 6PH

Local Authority	Camden
Local authority reference number	0092701282001A
Council Tax band	Deleted
Improvement indicator	No
With effect from	15 February 2002
Mixed-use property	No
Court code	None

Assessment

This application seeks a Certificate of Lawfulness (Existing) for the use of the fourth floor of the building as office space (Class E).

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:

- (a) 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*
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

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.

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 fourth-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 Council Tax evidence above suggests that any Council Tax paid on the property terminated in 2002, which is significantly more than 10 years before the submission of the certificate.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability', the fourth 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