

LDC (Proposed) Report	Application number	2024/3139/P
Officer	Expiry date	
Brendan Versluys	20/09/2024	
Application Address	Authorised Officer Signature	
2-3 Bloomsbury Square London WC1A 2RL		
Conservation Area	Relevant article 4	
Bloomsbury Conservation Area	None relevant	
Proposal		
Use of the existing building as an art gallery (Class F1(b))		
Recommendation:	Grant Lawful Development Certificate	

1.0 Site Description

- 1.1 The application site is located on the south of Bloomsbury Square and comprises a three storey plus basement building that is currently vacant. The building is understood to have historically been occupied by offices.
- 1.2 The building is a Grade II listed and is located within the Bloomsbury Conservation Area.

2.0 Proposal

- 2.1 A Certificate of Lawfulness is sought for the proposed use of the building as an art gallery (Class F1(b)), more specifically an art gallery which does not display art for sale/hire. The applicant owns/operates an art gallery in Stepney Green, London, and proposes to relocate the art gallery to the application site.
- 2.2 No internal or external changes are proposed.
- 2.3 The applicant seeks to confirm that the use of the building as an art gallery (Class F1(b)), would not constitute a change of use, and so planning permission is not required under section 55 of the Town and Country Planning Act 1990.
- 2.4 In support of the application, the applicant has submitted a cover letter (prepared by the applicant's planning agent) as well as a statement prepared by the applicant.

3.0 History

- 3.1 At the application site:

- **2005/2464/P** - Change of use from office (Use Class B1) to non-residential institution (Use Class D1). **Refused 26/08/2005**
- **2005/4269/P** - Change of use from B1 (office) to D1 (non-residential institution). **Granted 14/12/2005**
- **2008/0919/A** - Retention of non-illuminated corporate emblem mounted on two flag poles at roof level. **Granted 29/09/2008**
- **2008/4055/L** – Retention of two flag poles at roof level. **Granted 29/09/2008**

4.0 Assessment

4.1 In regard to applications for a Certificate of Lawfulness, 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, nor any from others, to contradict or otherwise make the applicant's version of events less probable, 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.

4.2 The applicant's evidence includes a statement prepared by the applicant (the owner/operator of the existing art gallery operating at a separate site). The existing art gallery (named Carlos/Ishikawa) is described as follows:

Carlos/Ishikawa was established in 2011 and its primary activities are promoting artists and putting on art exhibitions, which are free to attend and open to the public (typical opening hours are Wednesday – Saturday, 12–6pm). Alongside this, we host other cultural, educational and community based projects (also open to the public and free to attend) such as: workshops with schools and education groups; educational and artistic talks and discussion groups; reading groups; art performances. (Please see the documentation attached of some of our exhibitions and cultural and educational events since 2011).

4.3 The applicant's statement advises that the art gallery funds its programme of art exhibitions and cultural events through participation in major international art fairs. The applicant describes these art fairs as 'trade fairs' where international art collectors travel to see and acquire art, and the applicant acts as agents who show the artworks. The statement clarifies that some of the business's sales may take place as a result of artwork being displayed in the gallery, however these are not advertised for sale in the art gallery.

Some ancillary sales comprising 5% or less of our business can on occasion take place as a result of an artwork we have shown in our exhibition space, however the art gallery never operates as a retail space where a customer might walk in and buy a product. Additionally, the exhibitions that take place in our premises are often very experimental, completely uncommercial and unsellable and not for sale in any way (for example a large-scale immersive installation).

- 4.4 Taking into account the description of the existing art gallery, it can be ascertained that the gallery displays works of art (otherwise than for sale or hire) and in accordance with use Class F1(b).
- 4.5 Planning permission 2005/2464/P, dated 26/08/2005 provided for the change of use from office (Use Class B1) to non-residential institution (Use Class D1). The consented non-residential institution is described in the application material as an education facility.
- 4.6 A non-residential institution, which includes 'provision of education', and 'display of works of art (otherwise than for sale or hire)', was formerly classed as Use Class D1, but now falls under Use Class F1, following the Use Classes being updated on 1 September 2020. Specifically, 'provision of education' is under Use Class F1(a) and display of works of art (otherwise than for sale or hire) is under Use Class F1(b). The change from one use to another within the same Class, does not constitute 'development' and does not require planning permission.
- 4.7 The applicant has provided a lease document for the application site, granted to Bonnington Bloomsbury Ltd, for a period of 25 years from 2006. Holborn Links Ltd are named as the landlord on the lease and are also the applicant named to planning permission ref. 2005/4269/P. It is understood Holborn Links Ltd obtained planning permission to change the use of the building from B1 (office) to D1 (non-residential institution), with Bonnington Bloomsbury Ltd being the named tenant. Google Streetview imagery suggests Bonnington Bloomsbury Ltd, under the trading name of 'Bonnington's' operated the approved non-residential institution at the site from at least October 2008 – August 2009, with imagery showing two 'Bonnington' teardrop flags in place at the ground floor entry to the site.
- 4.8 The applicant has advised (via email) that Bonnington vacated the site following the on-set of the Covid-19 pandemic in 2020 but are still on the lease until 2031. There is no evidence to suggest the site has been used for any alternative (non Class F1) use since the Bonnington vacated the site.
- 4.9 Therefore, the proposed change of use from a Class F1(b)) education institute to a Class F1(b) art gallery (display of works of art (otherwise than for sale or hire) is not considered to constitute 'development' and planning permission is not required.
- 4.10 Importantly, the current assessment does not refer to any internal alterations required to implement the proposed change of use. As the building is Grade II listed, any internal works would require listed building consent.

5.0 Conclusion

5.1 The works for this application would not constitute development as defined by section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.

5.2 Grant Certificate of Proposed Lawful Development.