

LDC Report		30/12/2009
Officer		Application Number
Bethany Arbery		2009/5195/P
Application Address		Drawing Numbers
11 Charlotte Place, London, W1T 1SJ		Refer to draft decision notice.
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Conversion of 5 non self-contained residential units (HMO) on first, second and third floor level to 3 self-contained residential flats (Class C3).		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>Site and surroundings</p> <p>The application site is 11 Charlotte Place a four-storey terraced property located on the east side of Charlotte Place, a pedestrianised street located between Goodge Street and Rathbone Street. The first to third floor is currently in use as a house in multiple occupation (HMO). The basement and ground floor are occupied by a commercial unit. The building is not listed, but is located within the Charlotte Street Conservation Area.</p> <p>Planning History</p> <p>2009/2836/P</p> <p>Planning permission was refused on 14/10/09 for conversion of the existing House in Multiple Occupation consisting of 5 bedsits to 3 self-contained studio flats.</p> <p>Assessment</p> <p>The applicant states that the 5 units have been occupied as separate households (rather than by one household) since at least 1999. The applicant states in their covering letter dated 3rd November 2009 that the units shared bathroom facilities, but they each had their own cooking facilities. These statements are supported by the statutory declarations and letter from Eversley's dated 4th November 2009. The covering letter also acknowledges that in view of this the units form part of a House in Multiple Occupation (HMO). The applicant's view is that the proposed internal reconfiguration of the accommodation to provide 3 self-contained flats would not require planning permission because it requires only internal works which do not amount to development. They are of the opinion that as the overall number of units is to be reduced there is no material change of use proposed as the Act infers that a reduction in the number of units within a building does not need planning permission. It is noted that the applicant applied for planning permission for the same works of conversion earlier this year.</p> <p>The applicant has provided copies of a number of appeal decisions which they state support their case, these date from 1991, 1994, and 2007. There has over the years been some debate as to whether the conversion of a house in multiple occupations to self-contained flats constitutes a material change of use and there are appeal decisions which take alternative views. The view of the Council has consistently</p>		

been that the change from an HMO (Sui Generis) to self-contained flats is a material change of use. The planning enforcement team have served numerous notices against alleged breaches of planning control where HMOs have been converted into self-contained flats and many of these have been upheld at appeal (e.g. 44 Glenloch Road, 41 Christchurch Hill).

The fact that both the existing and proposed use are broadly residential in character should not lead us to conclude that no material change of use is occurring. What is material is the actual use to which the building would in practice be put to, if it can be anticipated that there would be practical and tangible difference in the way a building would be used it would be proper to conclude that a material change of use was involved. On the basis of this it is considered that the proposal involves a material change of use and therefore the certificate of lawfulness should be refused.

Planning permission would be required to convert the accommodation to self contained flats. Policy H6 of the Unitary Development Plan 2006 states that the Council will not grant planning permission for a change of use or conversion that would result in the loss of housing in multiple occupation of an acceptable standard unless it is replaced by permanently available affordable housing.

Recommendation: Refuse certificate.

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