

LDC Report	10/09/2015
Officer	Application Number
Tony Young	2015/3871/P
Application Address	Recommendation
68A - 74A Rochester Place London NW1 9JX	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use of both 1st floor level units as Class B1(a) offices (accessed from 2 separate entrance doors at ground floor level).	
Assessment	
<p>The application site is a two storey mid-terrace property located within a low mews type terrace along Rochester Place. The terrace lies to the east of the junction of Kentish Town Road and Royal College Street, south-west of Rochester Terrace, and is characterised by a variety of commercial buildings, offices and warehousing. To the rear of the site are the rear gardens of residential dwellings.</p> <p>The application relates to the use of the 1st floor levels of both 68a and 74a as Class B1(a) office units. The units are accessed from 2 entrance doors at ground floor level and are individual units, separate from each other and from the ground floor units below.</p> <p>The building is not listed but sits within the Rochester Conservation Area (adopted December 2001).</p> <p>The application seeks to demonstrate on the balance of probability that both units (68a & 74a) have been in use as offices (Class B1a) for a period of 10 years or more, such that continued use would not require planning permission.</p>	
Applicant's Evidence	
The applicant has submitted the following information in support of the application:	
<ul style="list-style-type: none"> Statutory declaration from Adam Black (Applicant) dated 10/07/2015 and co-signed by a solicitor, asserting that the 1st floor units of nos. 68a and 74a have been in use as offices for over 10 years. Statutory declaration from Imran Shaikh (former tenant & estate agent) dated 10/07/2015 and co-signed by a solicitor, asserting that the 1st floor unit at 74a has been in use as offices for over 10 years. 	

- Emails from Adam Black (Applicant) dated 06/07/2015, 08/07/2015, 10/08/2015, 12/08/2015 and 13/08/2015 setting out history of office use at both units and in response to comments from local groups.
- Approved drawing (ref. PEX0100625) dated 04/12/2001 showing unit 5 as office floor space at 1st floor level (nos. 68A & 74A).
- Supporting lease information, statutory declarations and other documentation (from 2005):
 - Worldwide Purchasing Ltd (lease) dated Sept 2005 (74-74a);
 - Lex Records (lease) dated Dec 2005 (68a);
 - Christo & Co (advertisement) dated June 2008 (74a);
 - Rochester Place Ltd (lease) dated Oct 2008 (74a);
 - Rahesh Jivan (statutory declaration) dated Oct 2008 (74a);
 - Business Rates (example periods) dated April 2008 to Oct 2008 (74a);
 - Jessnic & Co (statutory declaration) dated Jan 2011 to Jan 2013 (74a);
 - Jessnic & Co (lease) dated Jan 2011 to Jan 2013 (74a);
 - Lex Records (statutory declaration) dated Feb 2015 (68a);
 - Marion Hume (statutory declaration) dated Sept 2013 to Aug 2015 (74a);
 - Marion Hume (lease) dated Sept 2013 to Aug 2015 (74a).
- Miscellaneous supporting information (pre-2005):
 - Utility bills (2001 to 2003);
 - Business Rates (April 2002 to Mar 2003);
 - THB Media (Aug 2001 to Aug 2002);
 - BBG Surveyors (July 2001);
 - Tolson Messenger Insurance (July 2002);
 - Norwich Union (July 2002 to July 2003)
 - Vibes UK Ltd (2002).

The applicant has also submitted the following plans:

- Site location plan (ref. LON.0251_02) dated 12/05/2015.
- Existing 1st floor plans (nos. 68A & 74A).

Council's Evidence

There is relevant planning history but no relevant enforcement action on the subject site.

PE9900926 (nos. 68-74) - Planning permission granted for the change of use and conversion of first floor from Class B1 use (office light industrial) to use as a bed sit flat incorporating the erection of a rear extension at first floor level, a shared entrance area and garage on the ground floor and associated external alterations. Refused 20/12/1999

PEX0100625 (nos. 68-74) - Planning permission granted for the replacement of existing roof covering with grey metal material and alterations to the front elevation including the erection of security roller shutters and housings. Granted 04/12/2001

A previously refused application (ref. PE9900926) describes the existing use as *Class B1 use (office light industrial)* indicating some element of office use combined with a light industrial use in 1999.

The plans approved in relation to planning permission dated 04/12/2001 (ref. PEX0100625) include a 1st floor plan (numbered 4900.66.02.B) that shows the 1st floor level (unit 5) as offices. This area of floorspace corresponds with the planning unit considered in this application, identified as 68a-74a Rochester Place and as shown on the submitted existing 1st floor plan.

Information available from the Valuation Office Agency list both 68a and 74a as offices since 01/04/2010 and that business rates were paid from this date.

Camden's Council Tax and Business Rates team have confirmed that both 68a and 74a (1st floor levels) have paid business rates as offices for the last 10 years.

Comments from Local Groups

Given the nature of certificate of lawfulness applications, in particular that purely matters of legal fact are involved in the determination of the application, the Council does not engage in a formal consultation process. However, given that two local groups responded previously to recent applications for this site (Rochester Conservation Area Advisory Committee and Reed's & Rochester Place Neighbourhood Association), an invitation was extended to both groups to provide a response. The responses are summarised below.

1. Rochester Conservation Area Advisory Committee raised issues concerning:

a. The ownership, planning history and legality of '68a-74a' Rochester Place.

Officer response: Black Communications Ltd. is the owner of 68a and 74a Rochester Place (1st floor level) and has been the owner since July 2001. The applicant, Adam Black, is the managing director of this company.

The 1st floor of 68-74 was sub-divided into two separate units sometime before December 2001. The two units (known as 68a and 74a) both have their own separate entrances from Rochester Place at ground floor level (including toilet facilities) and stairs which access the 1st floor. The units are both self-contained and there is no opening or connection with the ground floor units other than these two entrance doors. The planning unit for the purposes of this application is as shown on the applicant's existing 1st floor plan.

There is no planning permission in relation to the sub-division of the 1st floor into two units nor for a change of use to offices. This application seeks to regularise this by attempting to establish that the lawful use is Class B1(a) offices such that the continued use would not require planning permission and no enforcement action can be taken against the subject property.

b. The facilities / services necessary for use of premises as independent offices.

Officer response: The level and type of facilities or services necessary for use of the premises as offices, or indeed other planning merits, are not a consideration for this type of application. Purely legal issues are involved in determining certificate of lawfulness applications.

- c. The nature of the use and extent of the tenancy of both units. The types of businesses that occupied the units and whether they used the premises as offices.

Officer response: In 2005, the beginning of the 10 year period that is the concern of this application, Lex Records occupied the premises. Lex Records is an international record label and music publisher selling records worldwide and is affiliated to a major label for distribution. The applicant has confirmed that no manufacture of any records (or other product) has taken place at no. 68a during their tenancy. All manufacturing in relation to Lex Records is done at different sites with specialist companies and not at no. 68a which is solely used as offices. Having visited the site, I can confirm that the premises are currently in office use and, given the small size of the unit, consider that the premises would be unsuitable for manufacturing purposes associated with a record company. Lex Records have occupied the premises from 2005 to the present day. In a statutory declaration, the applicant asserts that the 1st floor units of no. 68a has been in use as Class B1(a) offices for over 10 years.

With regard to no. 74a, Worldwide Purchasing Ltd is a publishing company and occupied this unit from 2005 to 2007. Rochester Place Ltd. Is an estate agent business and occupied this unit from 2008 to 2010. Jessnic & Co. occupied this unit from 2011 to 2013. Jessnic & Co. was a wholesaler of bags to major British retailers. Their company was registered in Hong Kong where their partners carried out the manufacturing process of bags, belts and accessories. The applicant asserts that no. 74a was used by Jessnic & Co. solely as a UK sales office and no manufacturing took place here. Marion Hume, a fashion journalist, currently occupies this unit and has done so since 2013. In statutory declarations, the applicant and Imran Shaikh (former tenant & estate agent) assert that the 1st floor unit at no. 74a has been in use as offices for over 10 years.

- d. Queried whether rates had been paid on both units

Officer response: Business rates have been paid as offices for the last 10 years for both 1st floor units at 68a and 74a (see Council's evidence above).

2. Reed's & Rochester Place Neighbourhood Association outlined the planning history of the premises and raised issues concerning:

- a. The nature of the use and challenged whether any office use in the units was/is an ancillary use within Class B1(c)

Officer response: See response 1a & 1c above with regard to the use of the premises as offices over the last 10 years and the self-contained nature of the units. The 1st floor units have no connection with the ground floor use and operate completely separately from any use that may be carried out at ground floor level. As such, the office use at nos. 68a and 74a cannot be considered as ancillary to a light industrial use (or any other use) as they operate completely independently both in terms of separate occupancy and ownership, as well as, as separate self-contained planning units.

- b. Questioned whether sufficient evidence had been provided by the applicant to prove the use is Class B1(a) during the period in question

Officer response: It is considered that a sufficient type and level of evidence has been provided by the applicant to demonstrate that 'on the balance of probability' the units have

been in use as Class B1(a) offices for more than 10 years as required. Documents provided pre-2005 also gives supportive background and contextual information. Business rates information supports the applicant assertions and following further background and planning history checks, the Council has no evidence of its' own to contradict or undermine the applicant's version of events.

- c. Queried whether rates had been paid on both units

Officer response: Business rates have been paid as offices for the last 10 years for both 1st floor units at 68a and 74a (see Council's evidence above).

- d. The types of businesses that occupied the units and whether they used the premises as offices

Officer response: see response 1c above.

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 (paragraph 006 of the National Planning Policy Framework effective 06 March 2014). 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 Council does not have any evidence to contradict or undermine the applicant's version of events. All the statutory declarations state that the units have been in use as Class B1(a) offices for more than 10 years and the additional information supports that assertion.

The information provided by the applicant is therefore deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the units have been in use as Class B1(a) offices for 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: Approve