

LDC Report	30/03/2016
Officer	Application Number
Leela Muthoora	2015/6975/P
Application Address	Recommendation
Basement and Ground Floors 104-105 Saffron Hill London EC1N 8HB	Grant Certificate of Lawfulness
1st Signature	2nd Signature (if refusal)
Proposal	
Use of basement and ground floor level as business use within Class B1.	
Assessment	
<p>The application site is located on the west of Saffron Hill within close proximity to the junction with St Cross Street to the north and Greville Street to the south. The site comprises a part five, part six storey post-war building, the basement and ground floors are occupied by NTR Metals, a precious metals company serving the refining needs of jewellers. The upper floors are in residential use. Part of the fourth floor of the building comprises a mansard roof that is set back from the front façade of the building.</p> <p>The site is mainly surrounded by commercial properties but has residential accommodation on the upper floors and to the east at nos. 41-43 Saffron Hill and no. 44 Saffron Hill.</p> <p>The site is located within the Hatton Garden Conservation Area. The building is not listed and is not identified within the Hatton Garden Conservation Area as a building that makes a positive contribution to the conservation area.</p> <p>The application seeks to demonstrate on the balance of probability that the basement and ground floor unit has been used within Class B1 business use for a period of 10 years or more, such that continued use would not require planning permission.</p>	
Applicant's Evidence	
<p>The application is made under S191 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness for the existing use of the basement and ground floors as within Class B1 business use. In order to qualify, the applicant seeks to demonstrate that the property has been used continuously for a period of more than 10 years prior to the application.</p> <p>The applicant has submitted the following information in support of the application:</p>	

- Covering letter with supporting statement dated 11 December 2015. This includes: specification of the site;
 - the site context;
 - details of the existing tenant as a commercial company providing refining, recycling and minting of precious metals to the jewellery sector;
 - details of the planning history including the supposition that at sometime between 1987 and 2007 the use was changed from light industrial to office use under the 1987 permitted development rules
 - reasons for determining the use as lawful
 - date of the application

- Email dated 27 January 2016 with statement confirming that none of the processes undertaken at the premises would fall within the definition of the general industrial classification of Class B2 and that the terms of the lease would prohibit doing so.

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- An existing plan of the basement
- An existing plan of the ground floor

Council's Evidence

There is relevant planning history but no relevant enforcement records associated with the subject site.

TP/70528/9732 Letter of withdrawal of application as permission not required dated 21/09/1953 For reinstatement after war damage to the building. The property is zoned in the Council's Administrative County of London Development Plan 1951 for light industrial purposes.

TP70528/1920/26/07/55 Permission for development (conditional) 14/07/1955
The erection of a building having a basement, ground and four upper floors to be used for light industrial purposes.

TP/70528/9127 Permission for development (conditional) 28/11/1955
The erection of a building having a basement, ground and four upper floors to be used for light industrial purposes.

TP/70528/9127 Permission for development (conditional) 11/01/1956
The erection of a building having a basement, ground and four upper floors to be used for light industrial purposes.

TP/70528/19082 Permission for development 07/03/1957
Erection of an escape staircase.

TP/70528/02/01/59 Refusal of permission to develop 10/02/1959
The use of fourth floor as offices.

Reason for refusal:

- (i) That such use would not accord with the Council's Development Plan in which this area is allocated for light industrial users and intended for the relocation of industries tied to London but now wrongly sited or displaced by redevelopment.

CTP/N16/13/G/27110 Refusal of permission to develop 01/11/1978

Change of use from light industry to educational, office and storage purposes in association with the use of the premises as a college for management and associated training.

Reasons for refusal:

- (i) The use of educational, office and storage purposed does not conform with the Initial Development Plan in which the area is zoned for light industry.
- (ii) The proposed development within the Hatton Garden Special Area, involves the loss of existing light industrial floor space which is contrary to the Council's policies for the area and borough as a whole.

8601459 Refused Planning Permission on 09/10/1986

Change of use from light industrial to offices.

Reason for refusal:

- (i) The increase in office accommodation was contrary to the policy to restrain the growth of such space.
- (ii) Loss of light industrial floor space contrary to the Council's policies to retain such accommodation.

8800490 Granted Planning Permission 16/02/1989.

Alterations to the front elevation at ground floor level. Granted 16/02/1989.

8980021 Granted Advertisement Consent 25/04/1989.

Installation of internally illuminated static lettering on front fascia below first floor level. Lettering will read 'Metalor' and will measure 10cm and be spaced at 700cm per letter.

9300150 Granted planning permission 10/06/1993

Retention of French windows to rear of raised ground floor and erection of staircase plus balcony also to the rear elevation.

2007/3392/P Refused Planning Permission on 31/08/2007.

Demolition of part of the 4th and 5th floor and erection of a new part 4th and 5th floor, plus the change of use and works of conversion of the first to fourth floor levels from office use (Class B1) to residential use (Class C3) to create five self contained flats.

Reasons for refusal:

- (i) Loss of jewellery workshops and provision of B1 premises available for the jewellery trade in Hatton Garden
- (ii) Fifth floor roof extension would be visually prominent from the street level and harmful to the building, adjoining buildings and Hatton Garden Conservation Area.
- (iii) Window would be unsympathetic to the building.
- (iv) Fail to be sustainable in its use of resources
- (v) Increase in parking stress and congestion
- (vi) Increase in pressure on educational facilities
- (vii) Increase in pressure on open space facilities

2008/0252/P Refused on 13 August 2009

Change of use from office use (Class B1) at second, third and fourth floor levels to residential use (Class C3) to create three self contained flats (one 1-bed and two 2-bed).

Reasons for refusal:

- (i) Loss of jewellery workshops and provision of B1 premises available for the jewellery trade in Hatton Garden.
- (ii) Increase in parking stress and congestion.

2009/4753/P Granted 30 November 2009

Installation of window at ground floor level on the north-east (front) elevation.

2010/0949/P Granted Subject to a Section 106 Legal Agreement 01 July 2010

Change of use at second, third and fourth floor level from office (Class B1) to residential (Class C3). This is to create three self contained flats, comprising 1x1 bed (at fourth floor level) and 2x2 bed units (at second and third floor level).

In the committee report of 2010/0949/P the planning officer states in

Section 2.1 'The existing jewellery based use at basement, ground and first floor level will be retained as existing and is not part of this application'

2011/1963/P Granted Subject to a Section 106 Legal Agreement 18 July 2011

Change of use from office (Class B1) to residential (Class C3) at first floor level to create 1x2-bed self-contained flat.

London Borough of Camden's Council Tax and Business Rates have confirmed that the property in question is rated as 'office and premises' They confirmed that

- NTR's liability commenced on 16 March 2010
- The premises were vacant from 26 March 2009 to 15 March 2010
- 'Metalor Technologies' were liable for the premises from 17 August 2001.

The Valuation Office Agency describes the ground floor as 'office' and the basement as 'store' at the address since 01 April 2010.

A site visit to the property was undertaken on the 20 January 2016. The officer was satisfied that the unit had been occupied for office and light industrial use for some time.

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 (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 information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the basement and ground floor unit has been in use as office (Class B1a); research and development of products or processes (Class B1b) and (light) industrial use (Class B1c) 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.

The site visit confirmed the floor plans. Access and exit from the unit was by a secured street entrance and secondary secured internal counter. The ground floor level contained office furniture and equipment. The basement level is accessed via an internal spiral stair with workbenches, machinery, equipment and materials. The presence of furniture, equipment and materials and the activities being carried out would support that assertion that the site is a

business use within Class B1. The planning history begins with permission for the reinstatement of a building after war damage and was zoned for light industrial purposes. The subsequent reasons for refusals refer to light industrial use until 1986 prior to the introduction of the Town and Country Planning (Use Classes) Order in 1987 which brought light industrial uses (B1c) into the B Use Class.

In the committee report of 2007/3392/P the officer refers to confirmation from the Council's Community Development and Regeneration Team that the ground and basement floors are occupied by the jewellery trade manufacturer 'Metalor Technologies' and the loss of the type of use was a reason for refusal. The floor plans prepared by Prime Building Consultants that were submitted as part of this application include existing basement and ground floor plans. The ground floor plan (drawing no: 014.969.101) has been annotated to indicate that the front part of the ground floor is being used as a shop and the rear part is being used as an office. No uses have been identified on the existing basement plan (drawing no: 014.969.100).

In the committee report of 2010/0949/P the officer indicates that the premises on the basement and ground floor were vacant from 2008 to 2010 and prior to 2008 the site was occupied by 'Metalor Technologies', a jewellery trade manufacturer. The floor plans prepared by Prime Building Consultants that were submitted as part of this application include existing basement and ground floor plans. The ground floor plan (drawing no: 014.960.201) has been annotated to indicate that the front part of the ground floor is being used as a shop and the rear part is being used as an office. No uses have been identified on the existing basement plan (drawing no: 014.960.200).

The Council Business Rates liability has been confirmed from 2001 for Metalor Technologies, however the advertisement consent granted on 25 April 1989 was for a sign reading 'Metalor' indicating earlier occupation. The planning history does not formally demonstrate that the authorised use of the basement and ground floors as being solely office accommodation. However, The Town and Country Planning (Use Classes) Order 1987 and the associated circulars combines some of the office uses (formerly within Class II) with uses for light industrial purposes (formerly within Class III) into a business class, Class B1, that is, a use which could be carried out in any residential area without detriment to the amenity of that area. Therefore light industrial use falls within the same use class (Class B1 use).

Recommendation: Grant certificate.