

LDC Report		20/05/2016
Officer		Application Number
Gary Bakall		2016/1648/P
Application Address		Drawing Numbers
7 Birkenhead Street London WC1H 8BA		
PO 3/4	Area Team Signature	Authorised Officer Signature
Proposal		
Application for Certificate of Lawfulness (Existing): Use of building as 17 residential studio dwellings.		
Recommendation: Refer to Draft Decision Notice		
Assessment		
<p>The property comprises a three storey and basement end of terrace property located on the east side of Birkenhead Street. The building is a Georgian Terraced property and is Grade II listed and is within the Kings Cross Conservation Area.</p> <p>The application seeks to demonstrate, on the 'balance of probabilities' that the 17 separate self-contained studio flats within the property have been in such continual residential use in excess of four years or more.</p> <p>Applicant's Evidence: The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> ○ Site Location Plan ○ Floorplans ○ Signed Tenancy agreements for each flat showing that the flats started to be let soon after the refurbishment works were carried out, all in excess of four years ago. ○ A statutory declaration detailing that that the refurbishment works to create the 17 self-contained studios were finished in March 2011 and that each individual flat was let soon after and has been let continually let as residential units since then. 		
Relevant History		
<p>2006/4332/P and 2006/4332/L: The erection of a mansard roof extension to provide 3 x additional bedsits (non-self-contained) to an existing house in multiple occupancy (sui generis). REFUSED 15/15/2009</p> <p>2008/5016/P and 2008/5021/L: Erection of a pitched roof structure to the existing House in Multiple Occupation. REFUSED 16/12/2008</p>		

2009/0630/P and 2009/0632/L: Reinstatement of roof to existing House in Multiple Occupation (sui generis). GRANTED 17/03/2009

2010/0736/L: Internal additions and alterations to include installation of kitchen at first and second floor level and general refurbishment to existing House in Multiple Occupation (Class Sui Generis) GRANTED 29/03/2010

2010/6896/L - Internal alterations to existing House in Multiple Occupation (Class C4). GRANTED 11/01/2011

2015/1803/P and 2015/1648/P - Erection of mansard to create a self-contained residential flat (Class C3). Granted 15/06/2015.

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 (Planning Practise Guidance, paragraph 006). 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 applicants version of events, there are 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's evidence in the form of CTAX records state that 17 self-contained units were banded at this address from 13/05/2011 following an inspection on 02/06/2011 and rates have been paid continually since then.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the 17 self-contained residential units have been in continual residential use for a period of more than 4 years as required under the Act. Furthermore the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Lawful Development Certificate should be approved.