

| | | | |
|---|--|--|--|
| LDC Report | | 02/12/2015 | |
| Officer | | Application Number | |
| Jagdish Akhaja | | 2015/5689/P | |
| Application Address | | Recommendation | |
| Unit 10 Apollo Studios Charlton King's Road London NW5 2SB | | Grant certificate | |
| 1st Signature | | 2nd Signature (if refusal) | |
| | | | |
| Proposal | | | |
| Change of use from live/work unit (Sui Generis) to 1-bed residential flat (Class C3) | | | |
| Assessment | | | |
| <p>The application site is located on the northern side of Charlton King's Road, it is known as "Apollo Studios". The building comprises a mix of offices and residential units.</p> <p>The application relates to number 10 that is currently being used as a 1-bedroom self-contained flat (Class C3).</p> <p>The building is not listed and is not situated within a designated Conservation Area.</p> <p>The application seeks to demonstrate that the flat was converted from a live/work unit into a self-contained flat (Sui Generis use) over 4 years ago, and the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 or more years.</p> <p>Planning History</p> <p>PE9900503- The change of use from business use (Class B1) to a live/work unit (mixed use Class B1 and C3) – Granted 11/11/1999</p> <p>2006/5161/P- Installation of a window to front elevation at first floor level fronting Torriano Avenue to live/work unit. – Granted 09/01/2007</p> <p>2008/2671/P- Change of use from live/work unit (Sui Generis) to a self-contained residential unit (Class C3). – Refused 22/08/2008</p> | | | |

2014/1561/P - Change of use of first floor level from live/work (class B1a) to residential unit (class C3). Withdrawn 03/06/2014

2014/7532/P - Change of use from live/work unit (Sui Generis) to a 1 bed residential unit (Class C3)- officer recommendations granted subject to S106 (06/01/2015) – but not finalised, as agreement not processed and signed.

There is no relevant enforcement action on the subject site.

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- TV Licences dated December 2012 to December 2015
- EDF Electricity bill dated 25 August 2011
- BT Phoneline bill dated 19 May 2011
- Barclay Home Insurance dated 26 July 2011

Further justification was required to demonstrate that the flat has been operating as a single family dwelling continuously for the last 4 years. Subsequently the following documentary evidence has been submitted.

- Statutory Declaration Signed by the applicant and dated 11 January 2016
- Valuation Office Agency letter dated 7 April 2016
- Council Tax records and payments for 2011/12 and 2015/16
- Thames Water Bill dated 24 May 2011

The applicant has also submitted the following plans:

- A site location plan and floor plan no. AS2

Council's Evidence

The Council tax has confirmed that the liability for Council Tax for the separate unit started on 28/04/2011. It has been paid continuously since then.

A site visit to the property was undertaken on the 20/11/2015.

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 (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 Council does not have any evidence to contradict or undermine the applicant's version of events.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the lower ground floor unit has existed in 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: Grant Certificate of Lawfulness