

<b>LDC Report</b>		<b>07/07/2016</b>
<b>Officer</b>		<b>Application Number</b>
Gary Bakall		2016/1648/P
<b>Application Address</b>		<b>Drawing Numbers</b>
68/69 Guilford Street London WC1N 1DD		Refer to Decision Notice
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>Authorised Officer Signature</b>
<b>Proposal</b>		
<b>Application for Certificate of Lawfulness (Existing):</b> Use of building as 43 residential studio dwellings and 1X2bed flat.		
<b>Recommendation: Refer to Decision Notice</b>		
<b>Assessment</b>		
<p>Nos. 68/69 are two four storey and basement Georgian terrace properties within the grade II listed row of houses on the north side of Guilford Street within the Bloomsbury CA. The buildings were in use as a nurse's accommodation for decades and this resulted in significant subdivision of the building to create multiple rooms. The buildings have been laterally converted at all levels.</p> <p>The application seeks to demonstrate, on the 'balance of probabilities' that the 43 separate self-contained studio flats and one 2Xbed flat within the property have been in such continual residential use in excess of four years or more.</p> <p><b>Applicant's Evidence</b></p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> <li>○ Site Location Plan</li> <li>○ Floorplans</li> <li>○ Signed Tenancy agreements for each of the 43 studio units</li> <li>○ Building Control completion certificate dated 27/03/2012</li> <li>○ Receipts for 43 kitchens dated 18/04/2011</li> <li>○ Planning Contravention Response (statutory declaration) dated 16/06/2016 detailing that that the use as 43 studio flats commenced late 2011 and the 2 bed flat was in existence when they purchased the property in 2010 on a life time tenancy.</li> </ul>		

## **Relevant History**

**9300509** – Planning permission and listed building consent granted in October 1993 for the internal refurbishment and restoration in connection with the use of the buildings for nurses bedsit accommodation on first, second and third floors and administrative offices for the National Hospital and Institute of Neurology on ground floor and basement.

**2011/4948/P** – application for a lawful development certificate for continued use as hostel (Sui Generis) at all floors to 68-69 Guilford Street and continued use as a 2 x bedroom self-contained flat (Class C3) at ground floor level of 69 Guilford Street was withdrawn on 22/11/2011.

**2011/6130/P & 2011/6131/L** - erection of a lower ground floor rear extension and internal and external alterations in connection with the change of use from nurses accommodation (sui generis) and office (Class B1) to use as a House in Multiple Occupation (HMO) and one self-contained 2 bedroom flat (Class C3). Granted 14/02/2012.

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 applicant's 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 applicant has provided full tenancy documents complete with tenant's names and phone numbers for each separate studio flat going back over four years. There is only ever a short break of no more than a couple of weeks between tenancies. This shows that each separate studio flat has continual use as a residential unit (Class C3) in excess of four years. The building control completion certificate and kitchen receipts corroborate the applicant's version of events. The 2 bedroom flat on the ground floor of no. 69 has been tenanted since before the applicant purchased the property and this is documented in the planning history.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the 43 self-contained studio flats and one 2bed flat 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.

