

LDC Report	28/12/2016
Officer Gideon Whittingham	Application Number 2016/5940/P
Application Address 4 Emerald Street London WC1N 3QA	Recommendation Refuse
1st Signature	2nd Signature (if refusal)
Proposal Use of building as 5 self-contained residential units (within Use Class C3)	
Assessment	
<p>The application site is a four storey building (plus basement) on the east side of Emerald Street. The property is located within the Bloomsbury Conservation Area (sub-area 11: Queen Square / Red Lion Square), yet it is not a listed building nor is it mentioned as making a positive contribution to the wider conservation area.</p> <p>The application seeks to demonstrate that 5 flats (1 flat per floor) have existed at 4 Emerald Street for a period of 4 years or more such that the continued use would not require planning permission.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <p>Title Plan</p> <p>Statutory Declaration signed by Antonio Medin-Purrinos confirming ground, first, second and third floors of the property have been rented out as four self-contained studio flats and the basement floor of the property has been intermittently used as sleeping accommodation and storage over the last 10 years.</p> <p>Assured Shorthold Tenancy Agreements:</p> <ul style="list-style-type: none"> • Between Antonio Medin-Purrinos and Mr Shu Hao Wu for Studio A from 24/9/2006 for a period of 6 months. • Between Antonio Medin-Purrinos and Mr Timothy Allan Johnson for Studio B from 26/4/2009 for a period of 3 months. • Between Antonio Medin-Purrinos and Mr Wang Shang for Studio C/D from 25/9/2008 for 	

a period of 6 months.

- Between Antonio Medin-Purrinos and Mr Andrew Collins and Sharon Barford for Studio E from 15/2/2007 for a period of 6 months.

Existing Floor Plans

Photographic Evidence:

- Individual electricity meters showing 5 flats
- Intercom showing 5 flats

Council Tax Records:

- Dwelling Rooms C&D and Flats A; B; E have been registered for Council Tax, effective since 01/10/1993, with an A Council Tax Band.

Billings:

- EDL Energy pre-payment statement for basement flat, dated 16th September 2011

Council's Evidence

Relevant Planning History:

Ref: 10394 - The use of 4, Emerald Street, Holborn, for offices and storage, and workshop in the basement, as shown on the said plan subject to: (1) the use being entered into within six months from the first day of March, 1947, unless the Council shall have previously extended the period; and (2) no nuisance or annoyance being caused which may injuriously affect the amenities of the surrounding neighbourhood. GRANTED 14/04/1947.

Ref: TP/36380/04/01/47 - Use 4, Emerald Street, Holborn, for manufacturing purposes. GRANTED 14/02/1947.

Ref: 9300561 - Change of use and works of conversion from offices within Class B1 of the Town & Country Planning Act (Use Classes Order) 1987 into a single dwelling as shown on drawing numbers J/477/1 & 3 and location plan. GRANTED 01/10/1993

The Council Tax valuation list confirms:

Dwelling rooms C & D, Flat A; Flat B; Flat E have been registered for Council Tax, effective since 01/10/1993, with an A Council Tax Band.

It has also been confirmed by the Council's Council tax department that 4 Emerald street is registered as 4 flats.

A site visit to the property was undertaken on the Wednesday 09/11/2016. The officer was satisfied that the building was configured as 5 self-contained units, in so far as the layout of the building was consistent with the plan submitted by the applicant.

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.

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The information provided by the applicant is deemed to be insufficiently precise or comprehensive and therefore fails to sufficiently demonstrate that 'on the balance of probability' the building has existed as 5 self-contained residential flats for a period of more than 4 years as required under the Act. Furthermore, the applicant's evidence, namely the submitted Statutory Declaration and Council Tax Records sufficiently demonstrates only four flats have rental information and the basement floor level has not been used as a self-contained unit. The submitted Statutory Declaration states the basement floor level has been used for storage and sleeping accommodation only and the Council Tax Records describe 4 units at this address only. The applicant has been made aware of the inadequacy and throughout the application process.

Recommendation: Refuse