

<b>LDC Report</b>	11/04/2017
<b>Officer</b>	<b>Application Number</b>
Anna Roe	2017/1122/P
<b>Application Address</b>	<b>Recommendation</b>
11 Bernard Street, London, WC1N 1LN	Approve
<b>1st Signature</b>	<b>2nd Signature (if refusal)</b>
<b>Proposal</b>	
Use of the property as a hotel (Class C1).	
<b>Assessment</b>	
<p>The property comprises a four storey building, plus basement located on the southern side of Bernard Street opposite the junction with Marchmont Street.</p> <p>The building is listed grade II and is within the Conservation Area.</p> <p>The applicant is required to demonstrate, on the balance of probability that the property has operated as a hotel for a period of 4 or more years.</p> <p><b>Relevant History</b></p> <p><u>AC1119</u> - A projecting sign lettered "HOTEL" illuminated to glow red and border above and below, illuminated to glow green. Height 1'8", length and projection 2'6" and overall height 13'8". Granted 20/12/1956.</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>- British gas business/electricity bills addressed to the Russell Square Hotel, 11 Bernard Street for the period 2005-2014 (appendix 3)</li> <li>- Fire protection receipts addressed to the Russell Square Hotel, 11 Bernard Street for the period 1980-2014 (appendix 4)</li> <li>- Fire safety certificates addressed to the Russell Square Hotel, 11 Bernard Street for the period 1979-2010 (appendix 5)</li> <li>- Commercial waste collection agreements between the London Borough of Camden and the Russell Square Hotel, 11 Bernard Street for the period 2002-2013 (appendix 6)</li> <li>- Affidavit dated 14/02/2017 signed by Ivano Chiesa</li> <li>- Affidavit dated 21/02/2017 signed by Guido Chiesa</li> </ul> <p><b>Council's Evidence</b></p> <p>No substantive evidence.</p>	

## **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, paragraph 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 property has existed in residential use as a self-contained unit 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 (Existing)**