

<b>LDC Report</b>	28/09/2017
<b>Officer</b>	<b>Application Number</b>
Tony Young	2017/4676/P
<b>Application Address</b>	<b>Recommendation</b>
164A Clerkenwell Road LONDON EC1R 5DU	Grant Certificate of Lawfulness (Existing)
<b>1<sup>st</sup> Signature</b>	<b>2<sup>nd</sup> Signature (if refusal)</b>
<b>Proposal</b>	
Use as 3 self-contained (1-bed) residential flats at 1st, 2nd and 3rd floor levels (Class C3).	
<b>Assessment</b>	
<p>The site is a mid-terraced 4-storey building (with basement) located on the northern side of Clerkenwell Road near the junctions at Laystall Street and Vine Hill. The property has a commercial unit occupying the ground floor with the upper floors sub-divided into separate residential units. This application relates to the 3 self-contained units at 1st floor (Flat 1), 2<sup>nd</sup> floor (Flat 2), and 3<sup>rd</sup> floor (Flat 3) levels.</p> <p>The building is not listed and sits within the Hatton Garden Conservation Area.</p> <p>This application seeks to demonstrate that on the balance of probabilities that the use as 3 self-contained (1-bed) residential flats at 1st, 2nd and 3rd floor levels began more than four years before the date of this application such that its retention would not require planning permission.</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>• Cover letter from Applicant and Landlord (Mr Vincenzo Perotta) dated 13/08/2017 providing background information and clarification in support of the assertion that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floor flats have been in existence as separate residential units since December 1989, and have remained in continuous use as such until the present time;</li> <li>• Statutory Declaration (Appendix B) from Applicant and Landlord (Mr Vincenzo Perotta) dated 17/07/2017 declaring that the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floor flats have been in existence as separate residential units since December 1989;</li> <li>• Undated letter (Appendix C) from Letting Agent (Angel Lettings Ltd.) confirming that they have been letting the 3 units for residential purposes since January 2006;</li> <li>• Tenancy Agreement details (Appendices D1, D2 and D3) variously dated between 2007 and 2009 in support of the assertion that Flats 1, 2 and 3 have been in existence as separate residential units since at least 2007.</li> </ul> <p>The applicant has also submitted the following plans:</p>	

- Unnumbered site location plan (dated 17/07/2017) identifying the application site;
- Existing 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> floor plans (ref. 164CR-101 Rev 00 and submitted as Appendix A) showing each floor to be in residential use.

### **Council's Evidence**

The relevant historic planning records are as follows:

8600499 - Installation of a new shopfront. Planning permission granted on 21/05/1986. The submitted drawings include a 1<sup>st</sup> floor plan showing the floor used as a 'store' and 'wine store' in 1986.

Valuation Office Agency (VOA) records show council tax banding details for residential use at 1st floor (Flat 1), 2<sup>nd</sup> floor (Flat 2), and 3<sup>rd</sup> floor (Flat 3) levels since 01/06/2000.

### Site visit

A site visit to the property was undertaken on 18/09/2017. The officer was satisfied that all 3 units (Flats 1, 2 and 3) had been occupied for residential use for some time.

### **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 para. 006), 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 documents provided and Council evidence demonstrate that the use as x3 self-contained (1-bed) residential flats at 1st, 2nd and 3rd floor levels had begun since at least June 2000 and appear to have remained as such until the present time.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that 'on the balance of probability' the use as x3 self-contained (1-bed) residential flats at 1st, 2nd and 3rd floor levels began more than four years before the date of this application as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

**Recommendation: Approve**