LDC (Existing) Report	Application number	2018/2934/P
Officer	**Expiry date**	
Stuart Clapham	29/08/2018	
Application Address	**Authorised Officer Signature**	
18 Acton Street London WC1X9ND		
Conservation Area	**Article 4**	
Bloomsbury	**None**	
Proposal		
Use of ground floor and first floor of 18 Acton Street as C3 (Residential)		
Recommendation:	**Refuse Lawful Development Certificate**	

Application site:
18 Acton Street comprises of a triangular corner plot occupied by a five-storey, end-of-terrace Victorian dwellinghouse. This application relates to the ground-floor and first-floor of the eastern end of the site, accessed through a large garage door, which has accommodated a B1c motorcycle repair shop.

Proposal:
This application seeks to demonstrate that the whole of the ground and first floor of the property and neighbouring workshop would have a legal C3 use.

The applicant is required to demonstrate, on balance of probability, that workshop unit has been continuously used as a C3 (residential) use for the 4 years prior to determination of the case or had a lawful C3 (residential) use 4 years ago which has been exercised at some point in the last 4 years.

Applicant's Evidence:
The applicant has submitted the following information in support of the application:

- Planning statement
- Copy of a decision notice issued by the Council on 25th February 1985 relating to light industrial use at basement level.

Council's Evidence:

- A site visit was conducted on 07/03/2018. The unit was vacant.
- Google Streetview shows the use of the site as a motorcycle repair shop at May 2014 and June 2008.

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 Applicant has provided evidence of a previous B1c use at the basement level of 18 Acton Street in 1985. Since this relates to a separate unit, this is insufficient evidence that, on the balance of probability, the site in question has been used as a C3 dwelling over the last 4 years. It is further noted that no evidence has been provided by the applicant to sustain that the premises which were previously used as a workshop have ever had a C3 residential use class.

While the scope of this assessment considers only the legality of the use class (rather than its desirability in planning terms), B1 use classes are described under the Town and Country Planning (Use Classes) Order 1987 as being a use which can be carried out in any residential area without detriment to the amenity of that area. As such, the assertion made in the planning statement that the granting of a B1c use class for this would be inconsistent with the residential character of the street is unsubstantiated.

At the time of a site visit (07/03/2018) the ground and first floor were vacant, and the configuration and interior was consistent with light industrial/workshop use. Additionally, records from Google Street View would appear to show that the site was being used as a motorcycle repair in June 2008 and May 2014. The Council's evidence would demonstrate that, on the balance of probability, that the site has been used as a motorcycle repair workshop at various points over the last 4 years, and that this was in fact its last use.

The council would consider that none of the evidence provided by the applicant would demonstrate that the ground and first floor of the former workshop premises currently have, or have ever had, a C3 residential use class.

Recommendation: Refuse Lawful Development Certificate