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| LDC Report | 04/04/2019 |
| Officer | Application Number |
| Laura Hazelton | 2019/0731/P |
| Application Address | Recommendation |
| 29 - 31 Greville Street and 1 - 2 Kirby Street London EC1N 8AF | Approve |
| 1st Signature | 2nd Signature (if refusal) |
| | |
| Proposal | |
| Use of 6 rooms as aparthotel (C1 use) rather than previously approved self-contained residential flats (C3 use). | |
| Assessment | |
| <p>The application site is a 6 storey building located on the north side of Greville Street, on the corner of the junction between Greville Street and Kirby Street. The building is not listed and is located in the Hatton Garden Conservation Area.</p> <p>Planning permission was granted for the erection of the building on 24 May 2006 under reference 2006/0411/P. Permission was granted for the:</p> <p><i>Demolition of existing building and redevelopment of the site by erection of a 6-storey building to comprise jewellery workshop (B1c) at basement level; public resource and information centre (sui generis) at ground floor level; retail unit (A1) at ground floor level; 18 room aparthotel (C1) at ground; 1st, 2nd and 3rd floor, 6x self-contained residential units (C3) on the 4th and 5th floors, with associated residential balconies at 5th floor.</i></p> <p>The application seeks to demonstrate that the 6 self-contained residential units (C3 use) were not implemented as approved, and have been in use as aparthotel rooms (C1 use) for a period of 10 years or more such that the continued use would not require planning permission.</p> <p>The applicant is required to demonstrate, on balance of probability that the existing aparthotel units have existed for a period of 10 or more years.</p> <p>Applicant's Evidence</p> <p>The applicant has submitted the following information in support of the application:</p> <ul style="list-style-type: none"> • Statutory Declaration signed by Mr David Eric Smith of City Apartments Limited • Management Agreement between BridgeStreet Accommodations London Limited and Summerpark Homes Limited dated 26 March 2008 | |

- Hotel Check: Atelier EC1 by BridgeStreet Worldwide news article
- Atelier EC1 by BridgeStreet Worldwide marketing information
- Email correspondence dated 10 July 2008
- Electricity bill addressed to BridgeStreet Accommodations London Limited
- Opus Energy business gas bill addressed to City Apartments Ltd supplying 29-31 Greville Street for 04/12/2018 to 31/12/2018.
- Opus Energy business electricity bills addressed to City Apartments Ltd for 01/12/2018 to 31/12/2018 supplying 'Management, ground floor, 30 Greville Street' and 19, 20, 21, 22, 23, 24 Atelier Apartments, 30 Greville Street.
- SSE business gas bill addressed to BridgeStreet Accommodations London Limited supplying 'Hotel, 29-31 Greville Street' for 12/05/2018 to 10/08/2018.
- SSE electricity bill addressed to BridgeStreet Accommodations London Limited for 12/05/2018 to 10/08/2018 supplying 'B-A-a000, 30 Greville Street' and 19, 20, 21, 22, 23, 24 Atelier Apartments, 30 Greville Street.

The applicant has also submitted the following plans:

- A site location plan outlining the application site

Council's Evidence

Planning permission granted subject to s106 legal agreement 25/10/2005 under reference 2004/4796/P for the change of use from offices to light industrial (Use Class B1c) at basement level, to retail use (Use Class A1) and Visitor Resource and Information Centre (Sui Generis) at ground floor level, to apartment/hotel (Use Class C1) at first to third floor levels and creation of new fourth floor to accommodate 2 x 2 bedroom residential units (Use Class C3).

There is no enforcement history at the site.

Building Control application number 06/5/0321. Decision type – Accept Approved Inspector final certificate. Completion date 08/09/2008. Development description of “New hotel and retail units”.

Council tax have confirmed that all 24 units have been registered as domestic units since 01/09/2008 after the Valuation Office deemed them to be domestic; however, the Valuation Office has different criteria when determining whether a property is in domestic vs. hotel use, and considers that if a company lets a unit short term (28 days or under) for 140 nights or less and then for the rest of year lets it out for periods of 29 days or more, the unit remains domestic even if the lets are all for 29 days.

A site visit to the property was undertaken on 02/04/2019. The officer was satisfied that all six units had been in hotel 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 (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.

Although the Council Tax records list the site as being in domestic use, given the criteria used by the Valuation Office to classify domestic use, and the fact that all 24 units are classed as domestic rather than just the six approved residential flats, is not considered to demonstrate that these units were once self-contained residential flats.

During the officer's site visit, it was evident that all six units were in use as aparthotel rooms, with the same layout, furniture, signage, fixtures and fittings as the other aparthotel rooms on lower floors. The applicant has submitted a variety of evidence including online marketing information utility bills and correspondence referring to 24 hotel rooms dating back to 2008.

The Council does not have any other 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 six units in question have existed in hotel use for a period of more than 10 years as required under the Act. Furthermore, the Council's evidence does not contradict or undermine the applicant's version of events.

Recommendation: Approve