

<b>LDC Report</b>	19/06/2019
<b>Officer</b>	<b>Application Number</b>
Mark Chan	2019/2403/P
<b>Application Address</b>	<b>Recommendation</b>
17-21 Hatton Wall London EC1N 8JE	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 of the upper floors as three self-contained residential flats (Class C3).	
<b>Assessment</b>	
<p>17 – 21 Hatton Wall is a mid-terrace, four-storey building. The building is on the southern side of the road and is constructed with yellowish-brown bricks.</p> <p>The building is not listed but is located in the Hatton Garden Conservation Area.</p> <p>This application seeks to demonstrate that the upper floors of the building are in use as 3 self-contained residential flats (Class C3). The applicant is required to demonstrate that, on the balance of probability, the use has occurred for a period of 4 or more years.</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>• Completed application form</li> <li>• Cover letter</li> <li>• Tenancy agreement for Flat A, for a period of 12 months commencing from 08/08/2016</li> <li>• Tenancy agreement for Flat A, for a period of 12 months commencing from 14/07/2017</li> <li>• Tenancy agreement for Flat A, for a period of 18 months commencing from 14/07/2018</li> <li>• Tenancy agreement for Flat B, for a period of 12 months commencing from 18/08/2014</li> <li>• Tenancy agreement for Flat B, for a period of 12 months commencing from 18/09/2015</li> <li>• Tenancy agreement for Flat B, for a period of 13 months commencing from 03/09/2016</li> <li>• Tenancy agreement for Flat B, for a period of 12 months commencing from 02/09/2017</li> <li>• Tenancy agreement for Flat B, for a period of 12 months commencing from 17/09/2018</li> <li>• Tenancy agreement for Flat C, for a period of 24 months commencing from 12/05/2012</li> <li>• Tenancy agreement for Flat C, for a period of 12 months commencing from 10/09/2014</li> <li>• Tenancy agreement for Flat C, for a period of 24 months commencing from 18/09/2015</li> </ul>	

- Tenancy agreement for Flat C, for a period of 12 months commencing from 20/08/2016
- Statutory Declaration confirming that the first, second and third floor of the application building has been used as three self-contained flats (Flat A, B and C) since April 2010
- Council Tax valuation from directgov website for Flat A, updated on 24/09/2018
- Council Tax valuation from directgov website for Flat B, updated on 23/12/2018
- Council Tax valuation from directgov website for Flat C, updated on 24/09/2018
- Gas, Electricity, Broadband and Council Tax bills for Flat A from 2008 – 2012, 2017 – 2019
- Gas, Electricity, Broadband and Council Tax bills for Flat B from 2012 – 2013, 2016 - 2019
- Gas, Electricity, Broadband and Council Tax bills for Flat C from 2010 – 2013, 2017 - 2019

The applicant has also submitted the following plans:

- Ordnance Survey Map at 1:1250
- Existing Plans (Basement Level) – HD1166/1000
- Existing Plans (Ground Floor Level) – HD1166/1001
- Existing Plans (First Floor Level) – HD1166/1002
- Existing Plans (Second Floor Level) – HD1166/1003
- Existing Plans (Third Floor Level) – HD1166/1004
- Existing Plans (Roof Plan) – HD1166/1005
- Existing Front Elevations – HD1166/1006
- Existing Rear Elevations – HD1166/1007

## **Council's Evidence**

### Relevant Planning History

965 – Erection of an additional floor for office purposes on an existing building and the installation of a lift at No. 17-21 Hatton Wall, Camden – Permission refused. 29/11/1965

8401525 – (1) Change of use of basement ground and first floor from offices to light industry shop and office. (2) Change of use of second and third floor from offices to light industry and office. (Revised 22<sup>nd</sup> October 1984 by letter dated 17th October 1984) – Permission granted. 08/11/1984

9500035 – Change of use and works of conversion of first second and third floors into three self-contained flats as shown on drawing number 544/TP/115/01/1997 – Permission granted. 03/03/1995

### Site visit

A site visit to the property was undertaken on 19/06/2019. The officer was satisfied that the flats 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 (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.

From the evidence provided, it would appear that Flats A, B and C have been used to provide medium-to-long-term private accommodation. The submitted plans and officer’s site visit has confirmed that each flat is self-contained with two bedrooms and its own toilet and kitchen facilities.

The Council Tax records list the site as being in domestic use and the each flat is taxed separately. The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the building has been used as 3 nos. separate, self-contained flats for a period of more than 4 years as required under the Act.

The Council does not have any evidence to contradict or undermine the applicant’s version of events. Furthermore, the planning history for the site confirms the use of the upper floors of the building as residential accommodation through the application that was approved in 1995 (9500035) which granted permission for: *Change of use and works of conversion of first second and third floors into three self-contained flats.*

**Recommendation: Approve lawful development certificate**