

LDC Report	14/05/2019
Officer	Application Number
Nora-Andreea Constantinescu	2019/1459/P
Application Address	Recommendation
Maisonette 1st 2nd And 3rd Floor 15 Hatton Wall London EC1N 8JE	Grant certificate of lawful development
1st Signature	2nd Signature (if refusal)
Proposal	
Use of 1st, 2nd and 3rd floors as a self-contained flat (Class 3).	
Assessment	
<p>The application site is located on the southern side of Hatton Wall, and relates to the upper floors, 1st, 2nd and 3rd, part of a mid-terrace property. The basement and ground floor of the building are in retail use. The area is characterised by a mix uses comprising retail, office and residential, with residential usually occupying upper levels.</p> <p>The building is not listed and is located in Hatton Garden Conservation Area.</p> <p>The premises have been previously in office light-industrial use (B1c) and the application seeks to demonstrate that 1st, 2nd and 3rd floors have been in residential use for a period of 4 years or more, such that the continued use would not require planning permission. As such, the applicant is required to demonstrate, on balance of probability that the existing residential unit has existed for a period of 4 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"> • Tenancy agreements <ul style="list-style-type: none"> - Foxtons – September 2007 – 2008; 2008 – 2009; - Callum Roberts - October 2015 – 2016; 2016-2017; 2017-2018; 2018-2019 • Utility bills <ul style="list-style-type: none"> - Extra energy - September 2017; January 2018; November 2017; - Scottish Power - March 2018; June 2018; August 2018; October 2018 - Green Network – December 2018; • Council tax 	

- 2010-2011; 2011-2012; 2012-2013; 2013-2014; 2014-2015; 2015-2016; 2016-2017; 2017-2018; 2018-2019
- Property consultants Callum Roberts – letter confirmation of tenant since October 2015
- Sworn Affidavits from owner dated 8th August 2019 – confirming that he personally lived at the address from 2003 to 2007 after which the premises formed by 1st, 2nd and 3rd floors have been rented on short term tenancies since July 2010.
- Sworn Affidavits from owner of 20 Westminster Gardens, Ilford - confirming 1st, 2nd and 3rd floors of the premises being rented on short term tenancies since July 2010.
- Property consultants Foxtons – rental payments from tenant at the premises since December 2007, including 2008, 2009

The applicant has also submitted the following plans:

- A site location plan outlining the application site
- Existing C3 use upper floor plans HD1148/1001
- Existing B1 – use floor plans plus front elevation HD1148/1000
- Existing Rear elevations – HD1148/1002

Council's Evidence

Relevant planning history for the property is given below:

PSX0004327 – 15 Hatton wall 0- The change of use of the 1st, 2nd and 3rd floors from B1 (employment) use to C3 (residential) to provide 2 x 1 bed maisonettes, together with the erection of a roof extension, as shown by drawing number 2082/1A.- **Refuse 16/05/2000**

Reasons for refusal:

1. *The proposed change of use from B1 (employment) to residential use is contrary to the Council's policies EC5 and CLA2 as expressed in the Council's Unitary Development Plan to retain sites and premises which are considered suitable for continued employment use.*
2. *The proposed development does not include accommodation suitable for family occupation, contrary to the Council's policy HG23 of the Unitary Development Plan, to encourage the inclusion of such accommodation within schemes.*
3. *The proposed roof extension would be contrary to the Council's policies EN33, EN57 and SPG, by virtue of size and bulk, it would be detrimental to the appearance of the building and the character and appearance of the conservation area.*
4. *The proposed development fails to provide off-street car parking which would exacerbate existing levels of overnight car parking stress in surrounding streets. In this respect the proposals are contrary to policy TR16 of the adopted Unitary Development Plan.*

23201 - 15 Hatton Wall, EC1 - Continued use of the premises for office purposes by the Civil Service Union. – **Refused 16/11/1976**

25686 - Continued use of building for office purposes. – **Limited permission 30/01/1978**
Condition 1 – The limited period for the continuation of the use shall be until 31st July 1978 by which date the use shall be discontinued.

Condition 2 – This permission shall be personal to Civil Service Union during their occupation of the premises. On their vacating the premises, the use shall revert to the authorised use for shop and light industrial purposes.

Council tax department have confirmed that the liability for Council Tax for 1st 2nd and 3rd floors started on 19th of July 2010. It has been in payment continuously since then.

A site visit to the property was undertaken on the 10th May 2019. The officer was satisfied that the unit had been occupied for residential use and appeared to be as such 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.

Evidence has been submitted in the form of sworn affidavits, tenancy agreements, utility bills, rental payments, council tax, letter from the occupier, in order to demonstrate that the use of the upper floors of the property has not changed for the last 10 years and remained within the residential use (Class C3).

Proof in relation to the Council Tax records have been confirmed by the Council Tax department, which demonstrate that the premises have been in residential occupation since 2010 and therefore in the lawful use of residential, class C3. Significant weight is given to this evidence, given that both the records from the applicant and the council show continuous payments from tenants for more than 9 years.

The tenancy agreements submitted are considered appropriate and they provide information that the premises have been in residential use since 2007. In addition, the utility bills and property consultants records provide further proof on the residential use of the premises for more than 10 years.

Both affidavits confirm that the application site has been used as a residential unit for more than 10 years. They represent sworn, witnessed statement and as it is the case that if an individual knowingly makes a false statement in an affidavit they commit an offence and could be fined or imprisoned; significant weight is awarded to this evidence.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the 1st, 2nd and 3rd floors of the premises have existed in residential use 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: Approve