

LDC Report	17/12/2019
Officer Alyce Jeffery	Application Number 2019/5514/P
Application Address 11 Murray Street London NW1 9RE	Recommendation Grant Certificate of Lawfulness
1st Signature	2nd Signature (if refusal)
Proposal Use as office (Class B1).	
Assessment <p>The application site is located on the southern side of Murray Street.</p> <p>The application relates to the use of the basement and ground floor of 11 Murray Street.</p> <p>The building is not listed and is located in the Camden Square Conservation Area.</p> <p>The application seeks to demonstrate that the basement and ground floors have been in Use B1 for a period of at least 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 educational unit has 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"> • 1. List of attachments - word document. • 2. Land Registry Plan, Land Registry Title and confirmation of Trustees of the Holly Lodge Pension Scheme (only four Trustees permitted on Title) - 11 Murray Street NW1 9RE - pdf. • 3. Lease Plan of 11 Murray Street NW1 9RE prepared for the National Eczema Society Lease by Wrightmans in February 2015 - pdf. • 4. Statement of Dr Richard John Preece dated 28 October 2019 - pdf. • 5. Statement of Mr Paul Edward Tomlinson dated 15 October 2019 - pdf. • 6. Spiegel & Utrera Lease (unsigned and undated as the original signed Lease was lost following the sale of Superdeal plc - RJP has added the relevant dates in red) - word document. • 7. Spiegel & Utrera Licence (unsigned and undated as the original signed Licence was lost following the sale of Superdeal plc - RJP has added the relevant dates in red) - word 	

document.

- 8. Pages 1 & 19 of Spiegel & Utrera Lease and page 1 of their Licence (original pdfs of these three pages taken in 2015 before the original documents were lost) together with the two notice of licence termination emails dated 26 & 27 September 2014 - pdf.
- 9. Five photographs of Spiegel & Utrera offices taken 31 October 2014. The first three show the front office and the last two the back office - all ground floor - pdf.
- 10. Camden Business Rates Bills covering the entire period 1 February 2005 to 30 November 2014 thus covering the complete tenure of Spiegel & Utrera - pdf.
- 11. Spiegel & Utrera P.A. (USA) current main web page - 11.10.19 - pdf.
- 12. Christo & Co. Marketing Brochure launched October 2014 together with Heads of Terms dated 10 November 2014 (The second photo on page 2 shows the office basement in October 2014) - pdf.
- 13. National Eczema Society Lease of 26 February 2015 - (six relevant pages) - pdf.
- 14. Photographs of NES offices. Photos 1 & 2 show the front office, 3 & 4 the back office, 5 & 6 the basement - taken in July 2015 save for 3 & 4 taken October 2019.
- 15. Camden Business Rates Bills covering the period 1 December 2014 to 31 March 2020. The first covering the void period from 1 December 2014 to 31 March 2014 is billed to Superdeal with all of the remainder billed to the National Eczema Society - pdf.
- Statement Paul Edward Tomlinson dated 15 October 2019.
- Statement Richard John Preece dated 30 October 2019.

The applicant has submitted the following plans:

- A site location plan outlining the application site.
- Floor plans of the basement and ground floors.

Council's Evidence

The relevant planning history on the subject site is detailed below;

8400411 - The use of the basement as a self-contained 1 bedroom flat together with the opening up of the front basement area and its enclosure by metal railings and gate to a height of 1.25m with metal staircase access to the basement. **Refused** 15/05/1984.

8802009 - Erection of a roof extension at third floor level and a part one/ part two storey rear extension alterations to shopfront and reinstatement of front basement wall in connection with the use of the basement and ground floor as a shop and the upper floors as a 3 bedroom maisonette. **Granted** conditional planning permission 12/05/1988.

PE9900304 - Change of use of ground floor and basement from retail to residential and external alterations to rear. **Refused** 22/06/1999 and **dismissed at Appeal** 02/12/1999.

PE9900561 - Change of use of ground floor and lower ground floor from A1 to residential, and the conversion of the whole property to a single dwelling house, and associated alterations to the elevations. **Refused** planning permission 28/09/1999.

Business tax records have confirmed that the liability for Business Tax has been from at least 2004 to 2014 under Spiegel & Utrera Ltd, and 2014 to 2019 under National Eczema Society.

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 Council does not have any 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 basement and ground floor levels of 11 Murray Street have existed in B1 office 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: Grant Certificate of Lawfulness (Existing)