

LDC Report	09/11/2020
Officer	Application Number
Kristina Smith	2020/3528/P
Application Address	Recommendation
6 St Chad's Street London WC1H 8BD	Grant Certificate of Lawfulness (Existing)
1st Signature	2nd Signature (if refusal)
Proposal	
Use of building as hotel (Class C1)	
Assessment	
<p>The application site is a four storey (plus basement) mid terrace property located on the north side of St Chad's Street.</p> <p>The building is Grade II listed and located in the King's Cross St Pancras Conservation Area.</p> <p>The applicant is required to demonstrate, on balance of probability that the hotel use began more than 10 years ago, i.e. since September 2010, such that the continued use would not require planning permission.</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 from Stuart Bailey (CEO of Splendid Hospitality Group LLP) dated 04/08/2020, asserting that he has been actively involved with the Property since his appointment in 2007 and throughout that period the Property has been used continuously as a hotel, forming part of the Comfort Inn hotel at nos. 2-7 St Chad's Street. It goes on to declare that no.6 is used as 5 suites and reviews of suites can be seen on various booking websites dating back to 2004; whilst the address on booking confirmations and invoices is 2-5 St Chad's St, the hotel actually covers nos. 2-7 - human error that nos. 6 + 7 were never added; there was no residential use of the property at any time between when he was appointed CEO in 2007 and the present day; there are no kitchens save for a sink and microwave in suite rooms. <p>The applicant has also submitted the following plans:</p> <ul style="list-style-type: none"> Photo schedule dated January 10 relating to 2-5 St Chad's Street with corresponding Photographs Use Authorisation Form 	

- Letter from IS Insurance Solutions confirming building under no.6 has been covered between 30/04/2015 to 29/04/2021.
- Extracts from Tripadvisor reviews dating from 2004 relating to 2-7 St Chad's Street referring to one of the family suite rooms
- Water utility bill for 2-5 St Chad's Street dated 17/02/2020
- Energy utility bill for 6 St Chad's Street dated 25/06/2020
- Gas invoice for 2-6 St Chad's Street dated 7/03/2020
- Invoice for smoke ventilation system relating to 2-7 St Chad's Street dated 04/09/2017
- Floorplans for 2-7 (dated August 2018)
- Booking confirmations between 2013-2019 for rooms 401, 402, 403

Council's Evidence

The following is regarded as relevant planning history and enforcement action:-

Planning history

P9600846 and L9600847 - Conversion of building to provide 1 x two bedroom flat, and 3 studio flats, demolition of pitched roof and provision of mansard roof and elevational alterations –

Planning permission and listed building consent refused 07/03/1997 on the grounds that:

- The proposal would result in an unacceptable overall mix of units with three studio units unsuitable to the property
- The proposal would result in substandard accommodation by reason of the inadequate size of the third floor studio flat

Listed building and planning enforcement notices issued 27 March 1997.

Appeal against listed building enforcement notice allowed

Appeal against planning enforcement notice dismissed (and varied to 12 months compliance period)

TP15411/16241 - Conversion of No.6 St. Chads Street, St. Pancras, into three self-contained dwelling units. **Permission 17/11/1959**

Enforcement action

EN1806 (March 1997) - The unauthorised change of use of the premises from three self-contained flats to hostel accommodation. *No action recorded on file*

EN980152 (May 1997) - Change of use from 3 contained flats to hostel accommodation. *Notice complied with December 2003*

The Valuation Office Agency indicates that Council Tax is being paid on four flats within the building. The Council's Council Tax team confirmed this is the case and the applicant advises these have been paid on a direct debit basis for many years. However, this is not reliably indicative of the units being in residential use.

A site visit to the property was undertaken on 7th October 2020. No's 2-6 have been laterally converted and the hotel rooms at no.6 are numbered 401, 402 and 403. It was therefore clear that no.6 forms part of the wider Comfort Inn hotel that occupies nos. 2-7. The case officer was satisfied that the unit had been occupied by the hotel for some time and there was no sign of existing residential use.

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 sufficient evidence to contradict or undermine the applicant's version of events. The statutory declaration infers that the application site has been in hotel use since at least 2007 which is over 10 years ago.

The information provided by the applicant is deemed to be sufficiently unambiguous to demonstrate that 'on the balance of probability' no.6 St Chad's Street has 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