

LDC (Existing) Report		Application number	2021/2939/P
Officer		Expiry date	
Adam Greenhalgh		11/08/2021	
Application Address		Authorised Officer Signature	
6th Floor, Butler House 177-178 Tottenham Court Road London W1T 7NY			
Conservation Area		Article 4	
Bloomsbury		N/A	
Proposal			
Use of sixth floor as offices			
Recommendation:	Approve certificate		

The application site

The site comprises a 7 storey commercial building on the east side of Tottenham Court Road and the application relates to the top (6th floor) at roof top level. It comprises rooms and stores and it is accessed by staircases and a lift within the building.

Planning history

2020/5104/P – Change of use from residential to office on 6th floor – withdrawn 11/01/2021

Assessment:

The application is for a Certificate of Lawfulness for the existing use of the 6th (top) floor as offices. The application includes a 6th floor plan, a Statutory Declaration by Nicholas Lazari of Lazari Properties 1 Limited, owners of the building.

Also submitted are:

- Exhibit 1 – Existing 6th floor plans
- Exhibit 2 – Marketing brochure for offices on 4th, 5th and 6th floors
- Exhibit 3 – Photos of offices
- Exhibit 4 - Lease to Flight Bookers Ltd - 18/06/1992 - 23/06/2002
- Exhibit 5 – 1st to 6th floor plans (June 2001)
- Exhibit 6 – Lease to the 'Outside Organisation' for contractual term of ten years (29/09/2002)
- Exhibit 7 – Lease to the 'Outside Organisation' from 29/09/2013 to 28/09/2018
- Exhibit 8 – Photos of offices
- Exhibit 9 – Lease to Vincent Kenny-Tempest and Steven Kenny-Tempest (01/06/2021 – 30/05/2026)
- Exhibit 10 – Fire Certificate 29/07/1993

The application is made on the basis that the sixth floor has been in use for office purposes for ten years and that the office use is therefore lawful.

The Statutory Declaration made by the representative of the owner of the building confirms that the sixth floor has been used for office purposes since when it was acquired in July 1996 with the exception of a break in the tenancies from 24/06/2002 to 28/09/2002 and from September 2018 to 31 May 2021 when it was marketed (and re-fitted) for continued office use.

Copies of the leases up until 28/09/2018 and then from 01/06/2021 have been submitted. The marketing brochure and photos of the vacant offices have also been submitted.

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.

There are no LB Camden Building Control records to refute the applicant’s version of events.

It is concluded that, on the balance of probabilities, the sixth floor has been in use for offices for the relevant period (i.e. ten years) and that a Certificate of Lawfulness can therefore be granted.

Recommendation:

Grant Certificate of Lawfulness