

LDC Report	21/10/2021
Officer	Application Number
Miriam Baptist	2021/2471/P
Application Address	Recommendation
Ruspini House 20-24 Parker Street London WC2B 5PH	Grant certificate of lawfulness of existing use
1st Signature	2nd Signature (if refusal)
Proposal	
Use as dwellinghouses (C3).	
Assessment	
<p>Application Site</p> <p>Relevant Planning History</p> <p>PSX0005063 - The replacement of all windows with powder coated aluminium casement windows. Granted 21/05/2021</p> <p>2007/4296/P - Conversion of 2 garages into reception rooms including alterations to elevation by blocking up existing garage doors and creation of 2 doorways to provide access. Withdrawn 06/11/2007</p> <p>2009/5944/P - Erection of in-fill mansard roof extension at fourth floor level to provide additional living accommodation and the installation of windows at ground floor level on front elevation (in association with removal of garages and creation of additional living accommodation) to existing student accommodation (Sui Generis). Granted 07/07/2010</p> <p>Assessment</p> <p>This application seeks a Certificate of Lawfulness (Existing) for use of six flats as dwellinghouses (C3). The applicant is required to demonstrate that the existing use of the land is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990. For the purposes of the Act, uses and operations are lawful at any time if:</p> <p><i>(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and</i></p> <p><i>(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.</i></p>	

Applicant's Evidence

The applicant has submitted the following information in support of the application:

- Cover letter, dated 11th May 2021, describing the past use and current state of the property as well as Counsel opinion.
- A Statutory Declaration, signed and dated 23 September 2021.

The applicant has also submitted the following plans:

- Site plan

The cover letter describes the use of the property historically as residential, let to masonic members or their relatives at a subsidised rent, those in higher education or in their first few years of employment. It establishes that the property has historically been in use as residential accommodation and that it consists of six units, altogether 27 bedrooms in use. The Statutory Declaration provided affirms this history of use, stating the properties have been six residential flats since 1986.

Ruspini House has been unoccupied since 2019, its previous use as described is no longer considered viable and therefore the applicant seeks to rent on the open market as 6 residential C3 dwellings and seeks confirmation that this is the lawful use of the site.

Council's Evidence

The Council does not have sufficient evidence to contradict the applicant's position.

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.

On assessment the Council believes use of the existing six flats as C3 Dwellinghouses to be lawful.

Recommendation: Grant certificate of lawfulness of existing use