

Certificate of Lawfulness, 1 Lymington Road,
NW6 1HX

Planning Statement

Firstplan Ref: 23213/KM/ot

Date: September 2023

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Section 1 Introduction

- 1.1 This Planning Statement has been prepared by Firstplan on behalf of our client, Quintet Investments Limited, who own and manage 1 Lymington Road, London, NE6 1HX ('The Site').
- 1.2 The application is submitted pursuant to Section 191 of the Town and Country Planning Act 1990 to seek a Certificate of Lawful Existing Use of Development ('CLEUD') and seeks confirmation that the use of the first and second floors of the property as 8 flats is lawful in planning terms within Use Class C3.
- 1.3 The evidence should establish both the factual position of the use of the property for a period of four years or more (in the case of residential uses) and prove the lawfulness of the site in planning terms.
- 1.4 The onus of proof is to be held with the applicant in the submission of sufficient evidence. The National Planning Practice Guidance (NPPG) (2014) states that in the case of applications for an existing development, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicants version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. In this instance, the applicant presents robust evidence, sufficient to allow for the granting of a certificate.
- 1.5 This Statement will demonstrate that on the balance of probability, the application site has been used as residential flats in excess of four years.
- 1.6 The Statement is structured as follows:
 - **Section 2** – describes the property and the current use on site;
 - **Section 3** – assesses the lawfulness of the residential use;
 - **Section 4** – draws conclusions.

Section 2 Background Information

a) Site Description

- 2.1 The application site is a three-storey semi-detached residential property (two full storeys with accommodation in the roof) which is sub-divided into 13 flats, including a mix of studios and one bedroom units. The application relates to the flats at first and second floors, which are numbered flats 3, 5, 6, 7, 9, 11, 13, and 14.
- 2.2 The building is set back behind a front garden. There are two main entrances into the site, one at the front and one to the side passageway. All flats subject to this certificate are accessed from the front door.
- 2.3 The site is located within the West End Lane Conservation Area but is not a listed building.

b) Planning History

- 2.4 The is no relevant planning.
- 2.5 However, a recent application has been submitted in July 2023 for the *demolition of existing ground floor rear extension and construction of new single storey rear extension, reconfiguration and amalgamation of existing ground floor flats to provide 2 x studio flats and 1 a 2 bedroom flat and associated works* (2023/3119/).

c) Description of Proposal

- 2.6 This CLEUD application seeks to confirm that the existing use of the 8 flats at first and second floors are within the Use Class C3.

Section 3 Assessment of Lawfulness

3.1 1 Lymington Road, NW6 1HX, has been in use as 8 residential flats, with a mix of one-bedroom flats and studios for in excess of four years. The evidence to demonstrate this has been submitted with the application and comprises the following suite of documents:

- Lease Agreements for the individual flats for a four-year period
- Tenant Deposit Certificates for the individual flats for a four-year period
- Emails from tenants to the property management company regarding their flats
- EPCs from September 2019
- Electrical Installation Condition Reports dated January 2018
- Letters regarding rent increases in the period
- Company name change letters dated June 2022
- Council tax information
- Statutory Declarations from Property Manager and a Director of Quintet Investments

3.2 To assist officers, a summary of the tenants who have occupied each flat over the past four years is provided in **Table 3.1** below.

Room	Occupant Name	Date of Occupation
Flat 3	Savannah Lambert	April 2022 – Ongoing
	Michele Giradi	May 2019 – March 2022
Flat 5	Svetlana Zabrodskaia	May 2020 – Ongoing
	Lukasz Nespiak	November 2009 – April 2020
Flat 6	Lea Jiao Tarring Reiten	October 2021 – Ongoing
	Anissa Majid	October 2020 – October 2021
	Diego Moraes Da Silva	July 2019 – July 2020
Flat 7	Kae Suzuki	December 2021 – Ongoing
	Nico Adrian Proca	July 2014 – November 2021
	Eva Bodok	July 2014 – November 2021
Flat 9	Dario Schettini	May 2018 – Ongoing
Flat 11	Marina Cortese	June 2023 – Ongoing
	Julia Schaefer	September 2021 – May 2023
	Patricia Camara	December 2017 – September 2021
Flat 13	Mourad Guechtouli	January 2018 – Ongoing
Flat 14	Urte Mitkaite	December 2021 – Ongoing
	Stefan Stroffek	September 2020 – November 2020
	Kristina Kupciova	September 2020 – November 2020
	Daryl William Beane	August 2017 – August 2020

- 3.3 The evidence submitted clearly establishes the lawful use of the property as 8 self-contained flats.
- 3.4 It is noted that the numbering of the flats is not consecutive, it is understood that this is as a result of some of the rooms being amalgamated in the past. Some of this amalgamation is understood to have taken place in 2013, and certainly all works prior to the relevant four year period.
- 3.5 It is noted that the bathroom to Flat 13 is via a door off the corridor. However, a dwelling need not contain all its facilities within its main securable living area to be regarded as a dwelling. The bathroom has a lock and the tenant of No.13 has the key, with no other tenants having access.
- 3.6 Furthermore, The Town and Country Planning (Use Classes) Order 1987 (Part C), states:

“Use as a dwellinghouse (whether or not as a sole or main residence) —

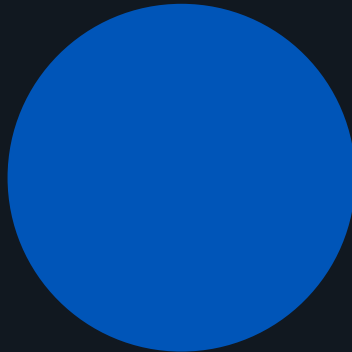
(a) by a single person or by people living together as a family, or

(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents).”

- 3.7 Given that the existing operation of the site complies with the above requirements of Class C3, and evidently has done for a substantial amount of time, the site is undoubtedly lawfully operative within Use Class C3.
- 3.8 As the lawful use of the premises as existing is Use Class C3, it is respectfully requested that the Certificate should be granted.

Section 4 Conclusions

- 4.1 This Statement sets out the grounds to confirm through a Certificate of Lawfulness for an Existing Use, that the current 8 flats on the first and second floors at 1 Lymington Road are lawfully within the parameters of Use Class C3.
- 4.2 The information presented is overwhelmingly in favour of the certificate being granted. The test in law is on the “balance of probability” and this is achieved easily with the evidence enclosed within the application. On the basis of the information provided in Section 3 of this Statement and the submitted documents, it is clear that the existing operation is typical of residential uses and falls within the purposes of Class C3 of the Town and Country Planning (Use Classes) Order 1987 (Part C).
- 4.3 It is therefore considered that the Certificate should be granted.
- 4.4 We trust that these documents are sufficient for you to confirm your approval and we look forward to hearing from you in due course.



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