

19 November 2024

London Borough of Camden
Planning – Development Control,
2nd Floor, 5 Pancras Square
c/o Town Hall
Judd Street
London
WC1H 9JE

The Savills logo consists of the word "savills" in a lowercase, red, sans-serif font, positioned on a bright yellow rectangular background.

Bill Taylor
E: bill.taylor@savills.com
DL: +44 (0) 2073308649

33 Margaret Street W1G 0JD
T: +44 (0) 20 7499 8644
F: +44 (0) 20 7495 3773
savills.com

Planning Portal Reference: PP-13385275

Dear Sir / Madam

2nd Floor Flat, 29-31 PARKWAY, LONDON, NW1 7PN

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT UNDER SECTION 191 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

I write on behalf of the applicant (Sparta Capital Properties Limited), to submit an application for a Certificate of Lawfulness of Existing Use or Development (CLEUD), pursuant to Section 191 of the Town and Country Planning Act 1990 (as amended) in relation to the site named above.

FOR THE AVOIDANCE OF DOUBT THIS APPLICATION IS MADE UNDER Section 191 of the Town and Country Planning Act 1990 (as amended).

The purpose of this application is to confirm:

The current existing lawful use of use of 2nd Floor Flat at 29-31 Parkway London NW1 7PN, as a single residential dwelling (Use Class C3)

This application is accompanied by evidence to demonstrate the CURRENT USE of the premises as at today's date.

S191. Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether—

- (a) any existing use of buildings or other land is lawful;
- (b) any operations which have been carried out in, on, over or under land are lawful; or
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if—

- (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
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

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The statutory planning application fee of £578 (plus £70 admin fee) will be paid directly by the applicant via the Planning Portal.

A list of submission documents is set out below:

Document	Description
<i>Application Form</i>	<ul style="list-style-type: none"> <i>Certificate of Lawfulness Planning Application Form</i>
<i>Appendix 1</i>	<p><i>Existing Drawings</i></p> <ul style="list-style-type: none"> <i>Existing Site Block Plan</i> <i>Existing Basement Plan</i> <i>Existing Ground Floor Plan</i> <i>Existing First Floor Plan</i> <i>Existing Second Floor Plan</i>
<i>Appendix 2</i>	<p><i>2018 Drawings</i></p> <ul style="list-style-type: none"> <i>Basement Floor Plan</i> <i>Ground Floor Plan</i> <i>First Floor Plan</i> <i>Second Floor Plan</i> <i>Section A-A</i> <i>Section B-B</i> <i>North West Elevation (Front)</i> <i>North Elevation (Roof Courtyard)</i> <i>South East Elevation (Roof Courtyard)</i>
<i>Appendix 3</i>	<p>Parkway Council Tax Invoices</p> <p>Council Tax For Financial Years</p> <ul style="list-style-type: none"> 2016/2017 2017/2018 2018/2019 2019/2020 2020/2021 2021/2022 2022/2023
<i>Appendix 4</i>	<p>Flat 2 Council Tax Reminders</p> <ul style="list-style-type: none"> 18th May 2023 5th March 2024
<i>Appendix 5</i>	Council Tax Band Record
<i>Appendix 6</i>	<p>Business Rates Valuation Record</p> <ul style="list-style-type: none"> 1st April 2017 to 31 March 2023 1st April 2023 to Prese
<i>Appendix 7</i>	Royal Mail Address Finder

<i>Appendix 8</i>	<p>Historic Planning Permissions</p> <ul style="list-style-type: none"> • 8802383 – Application Form • 8802383 – Decision Notice • 8802383 – Drawings • <i>Sections and Elevations</i> • <i>Ground Floor Plan</i> • <i>First Floor Plan</i> • 2007/4218/A – Officer Delegated Report • 2008/2963/P – Officer Delegated Report • PEX0000516 – Letter • 8400350 – Application form
<i>Appendix 9</i>	Evidence Timeline

Application Site

The application relates to the 2nd floor flat ('the Flat') at 29-31 Parkway, London.

The Flat is situated in a three -storey terraced building (G, 1, 2 and a basement), positioned on the north-east side of Parkway, adjacent to the junction with Arlington Road. The Flat is accessed via a separate entrance door situated next to the restaurant shopfront on Parkway.

The layout of the Flat is shown in the Existing Drawings (Appendix 1). The Flat comprises, two bedrooms, a kitchen, living room, bathroom and a rear roof terrace.

It has existed as a residential flat historically and uninterrupted for many years and does so at the current date

The site has a Public Transport Accessibility Level (PTAL) of 6b (6b being the highest), and therefore is well served by public transport, with Camden Underground Station within a short walk. The site is located within the Camden Town Conservation Area, and is also located within the designated "*Camden Town Centre*", forming a secondary frontage. The subject building is not statutory listed.

The site is located within Flood Zone 1 (the lowest risk category).

Planning History

According to the Council's online planning register, the site has been subject to numerous planning applications over a number of years, however it is important to note that these relate to the existing restaurant use.

Address	Ref	Proposal	Decision	Date
29 - 31 Parkway London	2008/2963/P	Installation of black tiles to façade at ground floor level.	Refused	12 Sep 2008
29-31 Parkway London	2007/4218/A	Retention of a static internally illuminated fascia sign and static internally illuminated projecting sign to restaurant.	Granted	09 Oct 2007
29-31 PARKWAY LONDON	PEX0000516	Installation of new shopfront to restaurant. As shown on drawing numbers: P.01; P.02b and P.03	Grant	04 Dec 2000
29-31 PARKWAY LONDON	AEX0000563	Display of illuminated fascia sign. As shown on drawing numbers: P.01, P.02b and P.03	Grant	10 Oct 2000
29-31 Parkway	8980425	The display of an internally illuminated fascia sign measuring 8.9m X 1.2m and an internally illuminated menu display at ground floor level as shown on drawing nos 124/5G 6E and 28.	Grant	18 Oct 1989
29-31 Parkway	8802383	Erection of a first floor addition for use in association with the ground floor restaurant amendments to the shopfront to incorporate the extension of the restaurant from No.31 to No.29 Parkway as shown on drawings No.124/2B and 124/1E as revised by letter dated 9th December 1988.	Grant	07 Feb 1989
29 Parkway NW1	8500835	Change of use of the ground floor from retail shop to restaurant. As shown in drawing no. 113/1. Appeal received against refusal of permission	Refuse Full or Outline Permission	18 Jul 1985
31 Parkway	8480041	(a)Display of shop sign externally illuminated by 3 spot lights. (b)Display of an internally illuminated projecting box sign on the shop fascia measuring 0.6m x 0.9m. (As shown on unnumbered plan)	Grant	23 Feb 1984
31 Parkway	8400350	Erection of new shop front.(As shown on one unnumbered plan).	Grant	23 Feb 1984
29 Parkway	CA/2228	The erection of an illuminated perspex fascia sign measuring 4m x 1m (13'x3'6"), colours - orange with black lettering reading 'Camden Music Centre' with an overall height above the ground of 4.3m (14'0")	Grant	22 Feb 1974
29 Parkway	17803/	The installation of a new shop front at 29 Parkway, NW1	Grant	21 Feb 1974
29 Parkway	15428	Change of use of ground floor of 29 Parkway, N.W.1. from retail shop to that of a use for the sale of hot food.	Grant	22 Mar 1973
29 Parkway	7409	The installation of a new shop front at 29 Parkway, Camden, and the extension of the shop at the rear at ground floor level	Grant	20 Aug 1969

Relevant Legislation

Section 191 of the Act states

If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

This is what this applicant seeks from this S191 application.

The National Planning Policy Guidance (NPPG)

Sets out the guidelines for establishing whether an existing use of land is lawful.

Paragraph 002 “Lawful Development Certificates states:

“If the local planning authority is satisfied that the appropriate legal tests have been met, it will grant a lawful development certificate. Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application.”

Paragraph 003 of the NPPG details how lawfulness is defined in relation to lawful development certificates it states:

“The statutory framework covering “lawfulness” for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.”

It is the applicant's position that the existing use of the building, in this case the 2nd floor flat (Use Class C3), is lawful because this use has always been the known lawful use of this part of the building.

Supporting Evidence

The supporting evidence for the application comprises Council Tax invoices, Council Tax reminders, Council Tax records, Business Rates records, the Royal Mail Address Finder, and historic planning permissions. This evidence has been analysed, and our findings provided in this supporting Letter.

2018 Drawings – Appendix 2

Appendix 2 are site survey floorplans that were produced in June 2018 and dated as such.

Specific attention is drawn to the “Second Floor Plan” (MS-5565A). This drawing shows that there is an existing 2nd Floor Flat. The flat is accessed via the southern stairwell and contains bedrooms, kitchen, bathroom and rear roof terrace.

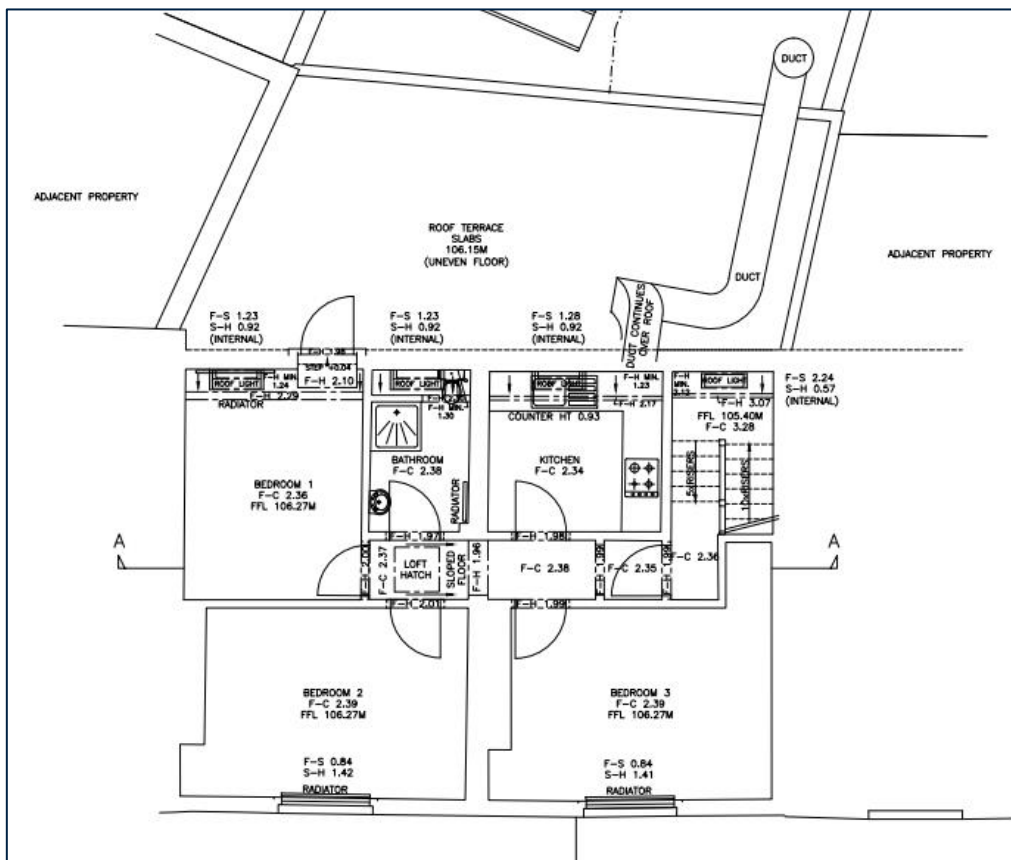


Figure 1 – Second Floor Flat (MS-5565A)

Parkway Council Tax Invoices 2016 to 2021 - Appendix 3

The Council Tax Record provides clear evidence of continuous occupation of the “2nd Floor Flat, 29-31 Parkway, London, NW1 7PN”, letters were addressed to Mr. D Chow and Mr. K Loh.

Spanning **6 consecutive financial years**. The Council classifies the property within "Property Band: D,".

The Council Tax Record confirms the occupants made payments to Camden across a total of 6 financial years, including:

- 2016–2017;
- 2017–2018;
- 2018–2019;
- 2019–2020;
- 2020–2021; and
- 2021–2022.

The Council Tax Records demonstrate the residential registration of the the Flat, and the full requested amount has been paid in full by the occupants. This confirms the financial responsibilities met by the occupants and establishes their uninterrupted residency in the Flat for a period of 6 financial years.

Parkway Council Tax Invoice 2022-2023 – Appendix 3

The Council Tax record provides evidence of occupation of “Flat 2nd Floor, 29-31 Parkway, London, NW1 7PN.”, with Letters addressed to Antaroto UK Ltd. These records show the Property Band as “D,” with payment due for the financial years 2021/2022 and 2022/2023.

Flat 2 Council Tax Reminders, May 2023 and Mar 2024– Appendix 4

The Council Tax Reminder, issued on the 18th May 2023, to “Flat 2nd Floor, 29-31 Parkway” is further evidence of the use of the Flat for the financial year of 2023.

Camden Council issued a Council Tax Bill for the financial year of 2024 – 2025 on the 5th March 2024, addressed for the “Flat 2nd Floor, 29-31 Parkway, London, NW1 7PN”. The Council classifies the property to be in Valuation B and D.

The evidence provided demonstrates the current registration of the Flat between 1st April 2024 to 31st March 2025 for Council Tax.

Council Tax Band Record - Appendix 5

The Gov.UK website (<https://www.gov.uk/council-tax-bands>) allows users to check their Council Tax band. A search conducted on October 16th, 2024, confirms the Flat continues to be registered under Council Tax Band D.

Search results for NW1 7PN		
Search again		
Showing 1 - 9 of 9 results		Last updated on 13 October 2024
Address	Council Tax band	Local Authority
FLAT 2ND FLR 29 PARKWAY, London, NW1 7PN	D	Camden

Figure 2 – Screenshot Taken From Gov. UK Council Tax Bands

Business Rates Valuation Record - Appendix 6

Business Rates records have also been checked for 29-31 Parkway on the Government’s Website - ‘Business Rates Valuation’. - <https://www.gov.uk/find-business-rates>

This allows users to search the business rates valuation for properties. A search undertaken on the 17 October 2024 confirms the following:

1. Business Rates for 29-31 Parkway relate to basement to first floor levels only, and importantly do not comprise 2nd floor where the residential Flat is located.
2. The current rating is from 1 April 2023 to present.
3. The previous rating is from 1 April 2017 to March 2023.

The floor areas of the property that are subject to business rates are fully described in the valuation report that is viewable online. These floor areas do not describe the Flat, and instead only cover basement, ground and first floor areas. This further highlights that the 2nd floor Flat is excluded from the commercial premises that occupies the property’s lower levels.

Restaurant floor areas			
Description	Area m ² /unit	£ per m ² /unit	Value ?
Ground floor retail zone a	43.71	£500.00	£21,855
Ground floor retail zone b	33.16	£500.00	£16,580
Ground floor retail zone c	21.12	£500.00	£10,560
Ground floor remaining retail zone	7.2	£500.00	£3,600
Ground floor kitchen	33.24	£250.00	£8,310
Ground floor internal storage	8.35	£250.00	£2,088
First floor office	25.97	£125.00	£3,246
First floor internal storage	35.02	£125.00	£4,378
First floor cold store	4.72	£125.00	£590
First floor staff toilets	7.72	£0.00	£0
Basement floor public toilets	10.51	£125.00	£1,314
Total	230.72		£72,521

Figure 3 – Screenshot of the Business Rates Valuation for 29-31 Parkway showing details of the floor areas applicable to the Restaurant.

Royal Mail – Appendix 7

A Royal Mail Address Finder search shows that there is an existing, live registered postal address for the Flat:

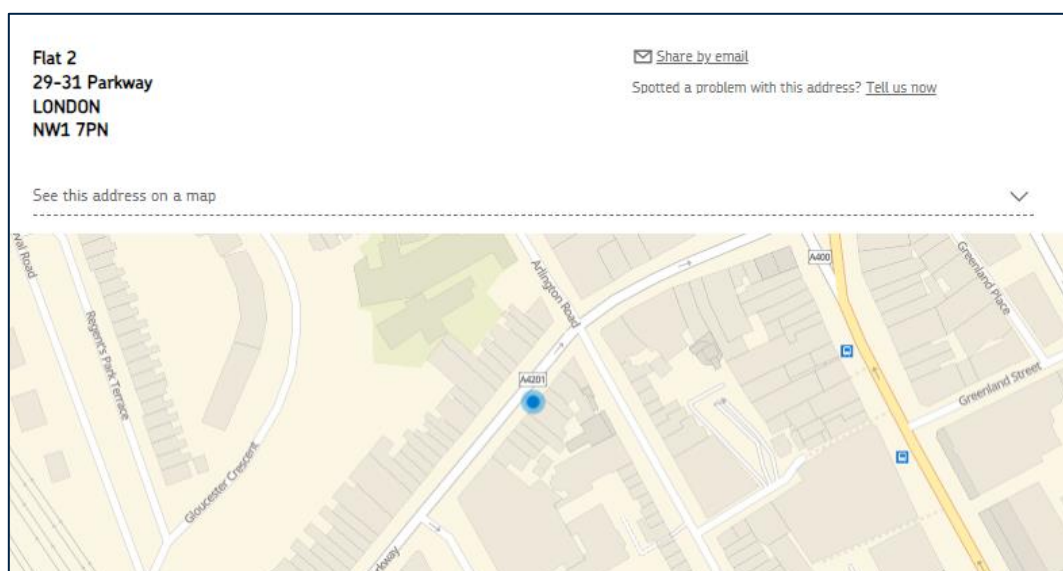


Figure 4 – Royal Mail Address Finder Results

Planning Permissions – Appendix 8

The Site's planning history is detailed within the Planning History section of this letter. Key planning applications that reference residential accommodation within the building are outlined below, with the relevant documents included within Appendix 8.

Planning permission ref: 8802383, dated 7 February 1989, is relevant and submitted as part of the evidence base for this application.

Planning permission ref: 8802383 was granted consent on the 7th February 1989, for the:

'Erection of a first floor addition for use in association with the ground floor restaurant amendments to the shopfront to incorporate the extension of the restaurant from No.31 to No.29 Parkway as shown on drawings No.124/2B and 124/1E as revised by letter dated 9th December 1988'.

The application form for the development is included within Appendix 8. Within Section (c) of this form the following is stated: "(Existing residential property above No's 29 & 31 is to be refurbished.)"

The description of development within the application form indicates that there is an existing residential property above No's. 29 and 31 Parkway.

2. PARTICULARS OF PROPOSAL FOR WHICH PERMISSION IS SOUGHT	
(a) Full address or location of the land to which this application relates	29/31 Parkway Camden LONDON NW1
(b) Site area	0.0178 hectares
(c) Give details of proposal indicating the purpose for which land/buildings are to be used and including any change(s) of use.	It is proposed to extend existing restaurant situated at No 31 Parkway to include No 29 Parkway. The whole restaurant is to be refurbished, with a new 'shop front' to Parkway elevation. A new extension to rear of site is proposed to house staff lockerroom, toilets and kitchen cold store. (Existing residential property above No's 29 & 31 is to be refurbished.) Note: Outline planning permission ref no PL8500835/J11/17/8 has been granted for change of use of no 29 from a shop to a restaurant.
(d) State whether applicant owns or controls any adjoining land and if so, give its location.	NO

LONDON RESIDENTS
 PLANNING AND TRANSPORT
 DEPARTMENT
 7 JUL 1988

Figure 5 - Screenshot of Planning Application Form with text referring to an existing residential property.

The planning permission Decision Notice (also included within Appendix 8) states at condition 4:

"The independent access of the residential accommodation on the upper floors shall be provided as shown on drawing 124/1.E and permanently retained. Reason: To protect the amenities of the residents".

Condition 4 further reinforces the fact that there was existing residential accommodation that occupied the upper floors of the building. Within figure 6 (below), we have identified in **red** the demise of the Residential Access and in **green** the demise of the Existing Residential Area.

The submitted and approved drawings show the first floor with an annotation stating, "This arrangement repeated above."



Figure 6 – Permission 8802383, Approved Drawing 124/1.E We have annotated in **Red**: the Residential Access, and in **Green**: the Existing Residential Area.
“This arrangement repeated above” annotation highlighted in **Blue**.

Within the Delegated Officers Report for application 2007/4218/A, the site description reads as:

The site is located in Camden Town Centre on the southern side of Parkway. It comprises of a three-storey building where the ground floor is currently being used as a restaurant (A3), and the second and third floors are residential units. The site is also located within Camden Conservation Area, Strategic view cone, Strategic View Wider Setting and a neighbourhood Renewal Area.

Within the Delegated Officers Report for application 2008/2963/P, the site description reads as:

The application site is located in Camden Town Centre on the south side of Parkway. It is a three-storey building. The ground floor is in use as a restaurant (A3), the second and third floor are in residential use. The building is not listed, but it is located within Camden Conservation Area.

Within Application PEX0000516, the supporting covering letter, dated the 4th August 2000, states:

It is important to note that the proposed residential access door to upper levels is exactly the same as the existing. It will be expressed by a simple doorframe that masks its volume.

The application form, for Application 8400350, states within Section 2 part (c) (Give details of proposal indicating the purpose for which land/buildings are to be used and including any changes(s) of use.):

*Restaurant on Gnd Floor Premises
Residential on 1st & 2nd Floor*

(New Shopfront)

Evidence Timeline - Appendix 9

29-31 PARKWAY, LONDON, NW1 7PN	Time (Years)													
Document	1984	1989	2000	2007	2008	2016	2017	2018	2019	2020	2021	2022	2023	2024
Appendix 1 - Existing Drawings														
Appendix 2 - 2018 Existing Plans														
Appendix 3 - Parkway Council Tax Invoices														
Appendix 4 - Flat 2 Council Tax Reminders														
Appendix 5 - Council Tax Band Record														
Appendix 6 - Business Rates Valuation Record														
Appendix 7 - Royal Mail														
Appendix 8 - Planning Permissions														
Evidence Total														14 Years
No Evidence														
Wider Evidence Provided														

Figure 7 – Evidence Timeline (Appendix 9)

The Evidence Timeframe has been prepared to illustrate the submitted evidence of residential occupation of the building. It demonstrates 14 continuous years of evidence that proves the current use of the 2nd floor as a single residential dwelling.

Summary

The collated evidence fully demonstrates that the existing use of the second-floor at 29-31 Parkway, London NW1 7PN, is as a single residential dwelling (Use Class C3) at the present time.

The Legal Requirements For A Valid Application

National Planning Policy Guidance, paragraph 005, specifies the content that must accompany an application for a lawful development certificate. The submission material required to make a valid application for a Certificate of Lawful Existing Use or Development is specified within, Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015:

Article 39 (2) of the TCPA DMP, an application must be accompanied by:

- (a) A Plan identifying the land to which the application relates drawn to an identified scale and showing the direction of North;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) A statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such person has been notified of the application.

Included within the submission material is a Site Location Plan, Existing Floor Plans, and supporting evidence, which demonstrates the Flat 2nd Floor, 29-31 Parkway, London, NW1 7PN, has been in continuous Use Class C3 residential occupation.

It is important to note that this application is made under S192. Whilst this application reviews historic actions, documents and plans, it does so only to show the longevity and continuous nature of the existing residential flat use at the site. Contemporary evidence exists in the form the Council tax records.

This application does **NOT** concern itself with being required to prove 4 or more continuous years of use to prove that it is lawful (up to 24 April 2024). The use has always been lawful.

This application is not seeking to prove that an unlawful use has become de facto lawful over the requisite period of time, by becoming immune from enforcement action.

However as can be seen the use can be shown to have existed over an extended historic period leading up to the present date.

Conclusion

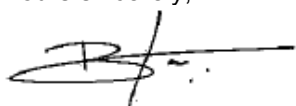
The body of evidence submitted with the application is sufficiently precise and unambiguous. Taking into account the evidence submitted with this application, it is fully demonstrated that the existing use of the 2nd Floor at 29-31 Parkway London NW1 7PN, as a single residential dwelling (Use Class C3), is lawful,

Having regard to the advice within the NPPG, the applicant is mindful that should the Council not have evidence to contradict or otherwise make the stated version of events less than probable, there should be no good reason to refuse the application, and a Certificate of Lawfulness should be issued accordingly.

Therefore the LPA must make their decision based upon the 'balance of probability', with material consideration towards the evidence supplied to support this certificate of lawfulness application.

I trust you have all the necessary information to register and determine the application. If you require anything further, please do not hesitate to contact me in the first instance (07813 997 162 or bill.taylor@savills.com).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bill Taylor", with a stylized flourish extending to the right.

Bill Taylor

Enc. As above

CC. Sparta Capital Properties Limited