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London Borough of Camden
Planning
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Our ref: U0028077

Date 19th December 2024

Dear Sir/Madam

**Application for Certificate of Lawfulness of Existing Use
Section 191 of the Town and Country Planning Act 1990 (as amended)
Congress House, 23-28 Great Russell Street, London, WC1B 3LS**

On behalf of our client, The Trades Union Congress, (the 'Applicant'), we enclose an application for a certificate of lawfulness of existing use or development ('CLEUD') in respect of Congress House, 23-28 Great Russell Street, London, WC1B 3LS (the 'Site').

The application is submitted under section 191 of the Town and Country Planning Act 1990 (the '1990 Act'), as amended, and section 39 of the Town and Country Planning (Development Management Procedure) Order 2015, as amended.

The application seeks confirmation that the Site is in lawful Institutional 'sui generis' use. In order to support this, it demonstrates that the Site has been in sui generis use for a continuous period of more than 10 years immediately preceding the date of this application without any enforcement action having been taken and is, therefore, lawful pursuant to section 171(B)(1) of the 1990 Act.

The legal framework

(a) Certificate of lawfulness of existing use or development

As noted, this application is made under section 191 of the 1990 Act which allows any person who wishes to ascertain whether any existing use of a building or land is lawful to make an application for that purpose to the local planning authority (section 191(1) of the 1990 Act).

Section 191(4) of the 1990 Act provides that, if the local planning authority is provided with information in support of a CLEUD application which satisfies it of the lawfulness of the use described in the application (or that description as modified or substituted by the local planning authority), the authority shall issue a certificate to that effect.

The Planning Practice Guidance and case law¹ confirm that the burden of proof is on the Applicant, that the standard of proof is the balance of probabilities and that the Applicant's own evidence is not required to be corroborated by independent evidence.

Paragraph 006 of the Planning Practice Guidance on lawful development certificates provides that: "in the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate **on the balance of probability**" (emphasis added).

Section 171(B)(1) of the 1990 Act provides that, where there has been a breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. An unauthorised use must have taken place continuously for a ten-year period in order to benefit from immunity from enforcement action. It is not suggested that there has been a breach of planning control in this case; however, the 'ten-year rule' is still a useful reference point in order to establish the lawfulness of the Site's use.

(b) Sui generis use

The Town and Country Planning (Use Classes) Order 1987 (as amended) (the 'Order') categorises different types of property and land into classes. However, not all uses of land fall within the specified classes. Article 3(6) of the Order identifies specific uses which do not fall within the uses specified in the Order. The list is not exhaustive and there are further uses not listed in article 3(6) which do not fall within the uses specified in the Order.

Paragraph 010 of the Planning Practice Guidance on 'When is permission required' explains that: "Not all uses of land or buildings fit within the use classes order. When no use classes order category fits, the use of the land or buildings is sometimes described as sui generis, which means 'of its own kind'." In *Tessier v Secretary of State for the Environment* (1976) 31 P & CR 161 (*Tessier*), for example, a sculptor's workshop was held not to fall within any use class.

Another example which does not fall within a use class is that of a mixed use². Paragraph 010 of the Planning Practice Guidance continues: "Where land or buildings are being used for different uses which fall into more than one class, then the overall use of the land or buildings is regarded as a mixed use, which will normally be outside a use class and a matter for local consideration (sui generis). The exception to this is where there is a primary overall use of the site, to which the other uses are ancillary. For example, in a factory with an office and a staff canteen, the office and staff canteen would normally be regarded as ancillary to the factory." In *Tessier*, Lord Widgery observed that it was not desirable that the use classes should be stretched to embrace activities which did not clearly fall within them.

Site and Surroundings

The application for a CLEUD relates to the Site, which is owned by the Applicant, having been purchased in 1946.

¹ *Gabbittas v Secretary of State for the Environment* (1985)

² *Manchester City Council v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 1920

The Site is located in the southern region of the London Borough of Camden ('LBC'). The Site is bounded by two streets: Great Russell Street (to the north), and Bainbridge Street (to the South). The site is occupied by a 7 storey C- shaped building surrounding an internal courtyard which is currently in use as the headquarters of the Trade Union Congress. The Site is situated in a mixed-use area, which is home to several restaurants and hotels, as well as a theatre and casino.

The Site is located within the Bloomsbury Conservation area and is Grade II* listed. The Historic England official list entry states that 'HISTORICAL NOTE: widely regarded, at the time of its completion and since, as one of the most important institutional buildings erected in London, and one of the most significant 1950s buildings in Britain'.

The Site is adjacent to Grade II listed Queen Mary Hall and YWCA Central Club, the Grade II listed Dominion Theatre, and the Grade II* listed Parnell House. Located opposite the site are Grade II listed terraced houses at 103, 104 and 105 Great Russell Street.

The Applicant's website advises that the building was opened in 1958 as the headquarters of the Trades Union Congress which brings together more than 5.5 million working people who make up 48 member unions. The Applicant's website confirms that it:

- supports trade unions to grow and thrive, helping them represent their members and keep pace with the changing world of work;
- stands up for everyone who works for a living, by publishing research and evidence, and campaigning for changes to the law and in society.
- advocates for collective bargaining, trade unionism and putting working people at the heart of our society, economy and politics; and
- helps union members get on in life, through running and managing learning and skills programmes.

Planning History

Planning permission was originally granted under reference P13/11/A/17413 for:

The erection of a building comprising two sub-basements, basement, ground floor and six storeys over for the Trades Union Congress memorial building on a site bounded by Great Russell Street, Dyott Street and Bainbridge Street, Holborn.

There have been a number of minor planning permissions and listed building consents relating to internal alterations, refurbishments works and air conditioning units.

Facts and evidence

This letter and supporting documentation provide relevant evidence to demonstrate that the Site has been in operation for a mix of uses continuously for at least 10 years immediately preceding the date of this application.

As demonstrated in the statutory declaration which accompanies this application prepared by an employee of the Applicant who has worked at the Site since 1969, the uses have comprised a combination of TUC-related uses (as staff

offices and associated dining and welfare areas, committee rooms, a lecture hall, archives and as a venue for TUC gatherings and events); external conferences and events; and office accommodation for tenants.

Over 60 years after it was built, the Site still serves as the Applicant's headquarters. It is important to note that the building, and many of the spaces within it, are still used for their intended purposes. For example, the General Council of the Applicant still holds its annual general meetings in the Council Chamber on the fifth floor.

In addition to this, the Site is used for the following:

Conferencing facility

The Applicant's website, <https://www.congresscentre.co.uk/>, advises that the purpose-built centre offers 16 flexible meeting and events spaces. The conference centre can hold up to 500 people. Testimonials are included from a range of businesses who have hired the venue.

Meeting rooms

The website advises that the Council Chamber together with four large meetings rooms can be booked for events by external organisations.

Other events

According to these pages of the Applicant's website, <https://www.congresscentre.co.uk/events/film-shoots/>, and [London filming location: Congress Centre's best bits - Congress Centre](#) the building has also been used for major film shoots.

Offices

As described in the statutory declaration, parts of the Site are let to, and are available to be let to, external office tenants.

Analysis

These uses are spread throughout the Site and no single use predominates. This is not a case where there is a primary use to which other uses are ancillary or where separate planning units could be identified.

As explained in the accompanying statutory declaration and shown in the plans exhibited thereto, the Site houses a number of spaces used by the TUC across its many levels and some of these spaces are also made available for external hire for a variety of uses including use as meeting rooms, conferencing facilities, exhibition venues and as spaces for a multiplicity of different events. These spaces are supported by catering and storage areas. Alongside this, there are offices for TUC staff and associated welfare areas, areas containing the TUC archives as well as dining and supporting facilities for both TUC staff and tenants. There are also numerous offices for external tenants, some of which are occupied and others of which are currently vacant.

A number of the uses to which the Site is put would, in isolation, fall within a use class specified in the Order. For instance, use as an office to carry out any operational or administrative functions falls within Class E of the Order, use for the provision of education or as a public hall or exhibition hall falls within Class F1 and use for storage falls within Class B8. However, the Site features a mix of these and other uses and so is not appropriately classified as falling within a use recognised by the Order. As per the Planning Practice Guidance, this is a case "where land or buildings are being

used for different uses which fall into more than one class” and, accordingly, “the overall use of the land or buildings is regarding as a mixed use” and should be treated as sui generis.

The statutory declaration explains how the Site has been in continuous mixed use for at least ten years preceding the date of this application. There has been no enforcement action during this time. While the particular uses of different floors have varied to some extent over time, and there have been periods of vacancy of certain areas during refurbishment or between lettings, the current mix of uses has been in place since the 1990s when office accommodation was made available to external tenants. Congress Centre was established to open up the Site to external users for conferences and events in 1999 and the use of the Site as a conference and events centre for third parties on a commercial basis has expanded over time.

The Site is subject to business rates.

Summary

This application seeks confirmation of the lawful existing use of the Site.

The evidence submitted demonstrates, in line with the statutory framework concerning lawful development certificates as set out in the 1990 Act, that the Site has been used continuously for a mix of uses for at least ten years immediately preceding the date of this application and as such should be treated as in lawful ‘sui generis’ use.

The information and evidence provided are sufficiently precise and unambiguous to demonstrate this on the balance of probabilities and to justify the grant of the certificate sought.

Supporting Documents

Alongside this Cover Letter, we enclose the following documents in support of the application:

- Completed Application Form and Certificates;
- Site Location Plan, prepared by Hugh Broughton Architects
- Statutory Declaration by [REDACTED] including plans and leases showing the current use of the building Letter Enclosures;
- Enclosure 1 – Extracts taken from website
- Enclosure 2 – Photographs showing the interior of the building

The application fee of £648 including the Planning Portal fee of £70. has been paid online using the Planning Portal.

We trust that you have everything required to proceed with validation, and we look forward to receiving the Certificate at the earliest opportunity. Please do not hesitate to contact Natalie Davies of this office should have any questions.

Yours faithfully,

[REDACTED]

Gerald Eve LLP

[REDACTED]