

# Planning Statement

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49 Fitzjohn's Avenue

John Hough Architects

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October 2013

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TA reference: SDML2002  
LPA reference: -  
Date of issue: 08 October 2013

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# 1 The Site

- 1.1 The application site in question is located at 49 Fitzjohn's Avenue (herein 'application site') and comprises of an 842 sq m linked detached Victorian property. The building is arranged over 5 floors with lower ground floor, raised ground floor and 3 storeys above. The third floor is a recessed area and smaller in size situated in the hipped roof.
- 1.2 To the rear of the property is a large garden. The building is not listed but is located within the Fitzjohns/Netherall Gardens Conservation Area. Adjacent to the site, to the south, is the St Mary's School. The school is operationally separate from the application site albeit there is a physical connection at the ground floor with a shared roof, although there is no access between the two units. The remainder of the surrounding properties are predominantly residential in use, being either flats or dwelling houses.
- 1.3 The site is in close proximity to the amenities of Hampstead Village and Belsize Park and within half a mile of Hampstead (Northern Line) and Swiss Cottage (Jubilee Line) underground stations.

## **2 Planning Application Proposals**

- 2.1 The planning application seeks to change the existing use of the building (Sui Generis) to a single residential family dwelling (Use Class C3).
- 2.2 No external alterations are proposed as part of the application.
- 2.3 In this regard this planning statement forms the basis for the planning application alongside the submitted site location plan (drawing reference: 1000).
- 2.4 The Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO) states at Article 8(1), which relates to the need for a Design and Access Statement, that the Article does not apply to applications for a change of use.

### 3 Planning History

- 3.1 The building was constructed prior to the introduction of the Town and Country Planning Act 1947, therefore no original planning permission exists. However it is self-evident that the building was originally built as a single family dwelling house.
- 3.2 There is no relevant planning history relating to the use of the application site contained on Camden's website, save from a withdrawn planning application (2013/1952/P) by the Congregation of Jesus Charitable Trust.
- 3.3 The application demonstrated that the house has been used as one household by the community of nuns, living as one household as a family – sharing one kitchen and eating meals in common. The application advised that for all practical intents and purposes the house was being used as a dwelling house by virtue of the way it functioned and therefore a change of use is acceptable to C3. The cover letter which accompanied this application is enclosed in **Appendix 1**.
- 3.4 We understand that Camden Council were not receptive to the assumptions proposed in the previous application. Whilst we are of still of the opinion that this argument has some merit, we would not want to reach an impasse given that the previous application was withdrawn. On this basis, we are seeking for a change of use on the basis that the existing use was as a convent (Sui Generis).

#### Existing Use

- 3.5 The building is currently being used as a convent, housing a community of nuns. The nuns have purchased a new site in which they will be moving to in October 2013. The site will fall vacant after this time.
- 3.6 The former change of use application submitted by Gerald Eve argues that the existing use is in fact C3 residential. The Town and Country Planning (Use Classes) Order 1987 C3c identifies that a small religious community may fall into this section provided it houses up to six persons. Paragraph 14 of Annex A to the Communities and Local Government Circular 08/2010 states that although the control of six persons defines the scope of the C3(c) dwelling house, this does not imply that any excess of that number must constitute a breach of planning control.
- 3.7 This point is evidenced by the fact that over the past two years there have been no more than 6 people permanently residing at the building. In planning terms this would constitute a material change of use which would technically have needed planning permission to regularise the use of the unit as changing from Sui Generis to C3(c)/C4. Clearly there has been no material change at the building as it still operates as it has done before as a convent, whether that be with 15 persons or 4 persons living in the unit.
- 3.8 There is a cogent argument to state that the existing use is C3(c). Notwithstanding the merits of the argument put forward by Gerald Eve, and in light of Camden Council's previous response to such an argument, the specific planning use of the building for the purposes of this application, is considered 'Sui Generis' by virtue of the fact that the site has been used as a house for a family of nuns.

## 4 Planning Analysis

### Planning Use Class

- 4.1 The existing use is clearly unique in terms of its planning use class definition and as a result there are no policies within the Camden Development Policies document which specifically deal with a 'convent'.
- 4.2 Under the current policy framework within Camden, and in the absence of any specific policies dealing with convents, the use of the site is considered as 'other housing with shared facilities' for the purposes of assessing it against the Camden Development Plan.

### Planning Policy

- 4.3 Under Camden's Development Policies (Adopted 2010) Policy DP9 is entitled 'Student housing, bedsits and other housing with shared facilities'. Within the supporting policy text it states that Policy DP9 relates to:
- *Any form of accommodation that has been designated as student housing;*
  - *Dwellings that take the form of bedsit rooms sharing communal facilities (such as a communal lounge or kitchen, or a shared bathroom); and*
  - *A limited category of other housing that is not self-contained, including hostels for occupational groups and migrant workers.*
- 4.4 Specifically Policy DP9 refers to how Camden Council will intend to deal with the above uses, specifically those referred to in the last 2 bullet points:

*The Council will resist development that involves the net loss or self-containment of bedsit rooms or of other housing with shared facilities unless either:*

*m) it can be demonstrated that the accommodation is incapable of meeting the relevant standards for houses in multiple occupation, or otherwise genuinely incapable of use as housing with shared facilities; or*

*n) adequate replacement housing with shared facilities will be provided that satisfies criteria d), e) and f) above; or*

*o) the development provides student housing that satisfies criteria d) to i) above; or*

*p) the development provides self-contained social rented homes.*

- 4.5 The full policy extract and supporting text is appended in **Appendix 2**.

### Existing Use

- 4.6 Prima facie, the way that the building is used is in the form of non-self-contained housing for the purposes of Camden's policy application (as there is no specific policy for a

convent). Given the atypical use of the application site and the special form of relationship that the nuns have with one another, it cannot be said that the dwellings take the form of a non-self-contained housing in its truest form. There is a relationship between the nuns which would not ordinarily be present in a 'conventional' 'other housing with shared facilities' where tenants would have no personal and/or religious kinship to one another.

- 4.7 Whilst it is understood that the previously withdrawn application was not accepted by your Council, there is still merit in the arguments that have been put forward. The nuns have lived at the convent as a community and to that purpose lived together as one household and as a family. This is distinctly different to the use of a bedsit, an HMO or a hostel which does not operate under a 'community' basis. This analysis is underpinned by the fact that there is one kitchen, all meals are prepared and eaten in common and all finances are shared. As the previous application sought to define, for all intents and purposes the unit has been operating exactly as a dwelling house would do.
- 4.8 In light of the unique way that this unit operates it cannot be defined as a bedsit or a hostel or indeed any form of House in Multiple Occupation (HMO). To further underline this fact, there is no HMO licence granted under which the property operates. The organisation which runs the application site also looks after various other sites which provide housing for nuns, none of which have HMO licences. In fact, the organisation has purposefully sought to avoid any such definition as an HMO given that the requirements to be in accordance with such a licence are prohibitive and cannot be accommodated within the existing building(s).
- 4.9 It is clear from the above that the correct policy to apply to such a building is Policy DP9 as the existing use is:
- "other housing that is not self-contained"*.
- 4.10 We have sought confirmation from the Local Superior, Sister Sarah Dobson, who previously was in charge of the operational running of the convent, that the above description of how the property was used is factually correct. She has confirmed this by way of a cover letter (see **Appendix 4**).

### **Policy DP9 Assessment**

- 4.11 The council will seek to resist development that involves the loss of other housing with shared facilities. There is however an exemption from this policy which is conditional on **one** of the following four points being met.
- 4.12 The policy is unequivocal in its wording that only one item of the policy needs to be met to allow the loss of shared facilities and this is demonstrated by each item on the list being followed by 'or' rather than 'and' meaning each criteria needs to be considered solely rather than cumulatively.

***m) It can be demonstrated that the accommodation is incapable of meeting the relevant standards for houses in multiple occupation, or otherwise genuinely incapable of use as a housing with shared facilities.***

- 4.13 In order to address this issue we have commissioned an independent report to assess whether or not the application site is capable of meeting relevant standards for a House in Multiple Occupation.
- 4.14 The application site falls short in a number of areas in terms of meeting minimum HMO standards. The key items are the size of bedrooms, inadequate stair well and lack of kitchen facilities. Further information on the shortcomings of the application site in terms of meeting the minimum HMO standards can be found in Building Report prepared by Aston Rose (**Appendix 3**).
- 4.15 A number of items identified within the report would need to be implemented or upgraded in order to meet the HMO standards to obtain an HMO licence. Some of these are relatively minor alterations but the above items noted would require significant undertakings which would have the impact or structurally altering the unit. The implementation of such items would trigger a material change of the use within the Sui Generis use class and therefore would require planning permission in any event.
- 4.16 The site is therefore incapable of meeting relevant standards for HMO.

***n) Adequate replacement housing with shared facilities will be provided which meets relevant standards for HMOs, is accessible to services and contributes to creating a mixed and inclusive community***

- 4.17 No on site replacement of facilities will be provided as the building would be converted to residential use.
- 4.18 Notwithstanding this fact, the nuns who were residing at the property will be moving to a more suitable location in Willesden Green. The use of this building is specific as a convent under the Sui Generis use class. There is no permitted change within a sui generis use class. To this end, the site can only be used as a convent going forward. Therefore the loss of a convent use class will not have any detrimental impact on the provision of shared facilities within the borough, as there is no longer a requirement for this specific type of shared housing use. There will be no resultant net loss of housing for shared facilities or HMO's within the borough as a result of the application.

***o) The development provides student housing***

- 4.19 This element of the policy does not apply.

***p) The development provides self-contained social rented homes***

- 4.20 This element of the policy does not apply.

## **Summary**

- 4.21 It has been demonstrated that that the existing application site cannot meet relevant standards for a House in Multiple Occupation. It has also been demonstrated that there



would be no net loss of student housing, bedsits or HMO's as a result of the application being approved giving its existing use a consent within the Sui Generis use class.

- 4.22 Given that part m) of policy DP9 has been satisfied, the policy expects development to provide an equivalent amount of residential floorspace for permanent housing in Use Class C3, which is what this planning application intends.
- 4.23 Indeed a common sense approach to the site's form and function reveals a community living as one household. As such this application seeks to formalise its continued use as a single dwelling house.

## 5 Conclusion

- 5.1 The application site is located on 49 Fitzjohn Avenue and consists of an 842 sq m linked detached Victorian property.
- 5.2 This statement forms part of a planning application which proposes to change the use of this building from a Sui Generis use class to a single family dwelling use class (C3).
- 5.3 There is planning history which confirms the use of the building given it was built prior to the 1947 Town and Country Planning Act, however it is evident that its initial use was as a residential property. The building has previously been used as a convent housing a community of nuns.
- 5.4 There is a strong argument to contend that the existing use of the site is in fact residential as set out in the previously withdrawn planning application cover letter (enclosed at **Appendix 1**). We are however of the understanding that Camden Council did not agree with this approach and hence the application was withdrawn.
- 5.5 In order to formerly address this position, we have identified that the existing use of the site is Sui Generis. There are no policies within Camden's development plan framework which seek to address a residential convent house. On this basis, the use must be considered as 'other housing with shared facilities'.
- 5.6 Policy DP9 states that loss of shared facilities will be resisted unless it can be demonstrated that the accommodation is incapable of meeting the relevant standards for houses in multiple occupation (HMO). We have conducted an independent report to assess what works would need to be undertaken to achieve a HMO standard dwelling at this site.
- 5.7 There are a number of issues with the building which would need to be addressed in order for it to meet the minimum HMO standards. Clearly the building in its current state cannot meet HMO standards. Therefore part m) of policy DP9 is met which would permit the building to convert to a residential use in accordance with local development framework.

**Appendix 1 – Cover Letter Accompanying Planning Application Ref: 2013/1952/P**



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4 April 2013

**Our ref:** JLO/RJLD/AD12946

**Your ref:**

Dear Sir

**49 Fitzjohn's Avenue, London NW3  
Town and Country Planning Act 1990 – Application for change of use**

We write on behalf of our client, Congregation of Jesus Charitable Trust, owners of the house at 49 Fitzjohn's Avenue.

The house has been used as one household by the community of Sisters. This application seeks a change of use to single family dwellinghouse (Use Class C3). A formal application is required by virtue of changes to the Use Classes Order. This house is in the ownership of the Congregation of Jesus Charitable Trust since (known prior to 2002 as the IBVM Charitable Trust). The house has been home for the community of sisters. The number of sisters living there has varied between 15 historically and 8 more recently. The community have lived together as one household, as a 'family'; there is one kitchen, all meals are prepared and eaten in common, and all finances are shared. To all practical intents and purposes, the house has been used as a dwellinghouse. The amendments to the Use Classes Order mean that a formal application is necessary in order to revert back to use as a single family dwellinghouse.

No works to the house are proposed as part of this application. The Town and Country Planning (Development Management Procedure) (England) Order 2010 (DMPO) states at Article 8(1), which relates to the need for a Design and Access Statement, that the Article does not apply to applications for a change of use. This is confirmed at paragraph 69 of Circular 01/2006. Accordingly, alongside this covering letter, and in accordance with requirements, we enclose:

- Planning application forms and ownership certificate A;
- Fee cheque (£385.00); and
- Existing floorplans (A2 / A4 - 1:100 / 1:50).

The application seeks to revert to the original use of the property as a single family dwellinghouse. As noted, the house has been used as a house and the occupiers have utilised it in the same form and character as a single family dwellinghouse, rather than in a more common form of multiple occupation. Nonetheless, the wording of the DMPO requires a formal application to be submitted in order to revert to use as a dwellinghouse (Use Class C3).

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The Town and Country Planning (Use Classes) Order 1987 (as amended) now stipulates that Use Class C3 comprises the following:

C3(a) covers use by a single person or a family;

C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

The amended order introduced Class C4 "Houses in multiple occupation (3-6 occupants)". In broad terms, Class C4 covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities.

Communities and Local Government Circular 08/2010 provides further guidance. It notes that:

Large houses in multiple occupation (those with more than 6 people sharing) – these are unclassified by the Use Classes Order. In planning terms they are described as being sui generis (of their own kind).

Annex A to the Circular further notes:

The common feature of all premises which can be generally be described as dwellinghouses is that they are buildings that ordinarily afford the facilities required for day to day private domestic existence.

Paragraphs 14 and 17 of Annex A state that:

Properties occupied by students which are managed by the education establishment, those occupied for the purposes of a religious community whose main occupation is prayer, contemplation, education and the relief of the suffering are also excluded. Some of these uses will be in C3, others will be in other use classes or fall to be treated as sui generis.

Although the control limit of six persons defines the scope of the C3 (b) and (c) dwellinghouses and C4 houses in multiple occupation classes, this does not imply that any excess of that number must constitute a breach of planning control. A material change of use will occur only where the total number of residents has increased to the point where it can be said that the use has intensified so as to become of a different character or the residents in relation to C3 no longer constitute a single household.

## **Summary and analysis**

The Trust have no further need for retention of the property. A formal application for re-use as a dwellinghouse is therefore only necessary as the property has been occupied by Members of a religious community. As set out at paragraph 17 of Annex A to the Circular a material change of use will only occur where use has intensified to have a different character – although religious communities are specifically excluded, making a formal application necessary in this instance,

despite the property being used, in essence, as a single family dwellinghouse to date. It should be noted that the property is already registered for Council Tax, with a religious community discount applied.

Accordingly, it is considered that the proposed change of use has no material effects, includes no physical changes to the property, and reasonably ought to be granted planning permission on the basis set out within this letter.

Should you have any queries or wish to discuss any matters, please contact either Robert Davies (020 7333 6207) or Natalie Rowland (020 7333 6220) of this office.

Yours faithfully



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Encs.

**Appendix 2 – Camden Development Policies 2010, Policy DP9**

## 9. Student housing, bedsits and other housing with shared facilities

9.1 The Council seek a diverse range of housing, as set out in Core Strategy policy CS6, and will seek housing types suitable for different groups. Young people and students make up a significant proportion of households in Camden. Many of these live in housing with shared facilities. Policy DP9 provides our detailed approach to housing with shared facilities and student housing.

9.2 Policy DP9 relates to:

- any form of accommodation that has been designated as student housing;
- dwellings that take the form of bedsit rooms sharing communal facilities (such as a communal lounge or kitchen, or a shared bathroom); and
- a limited category of other housing that is not self-contained, including hostels for occupational groups and migrant workers.

Policy DP9 does not relate to any form of accommodation that is:

- designated as housing for older people (see policy DP7), housing for homeless people (see policy DP8) or housing for vulnerable people (see policy DP8),
- affordable or subsidised accommodation for key-workers and other staff, such as nurses (see policy DP4 and paragraphs 4.6 to 4.7); or
- accommodation for short-term visitors, such as backpackers or other tourists (see policy DP14).

9.3 Bedsits and other homes with shared facilities are often known as houses in multiple occupation or HMOs. HMOs are flats or houses permanently occupied by more than one household, where each household does not have exclusive access to all cooking, washing and toilet facilities behind a locked front door. Most HMOs are outside any use class. Policy DP9 applies to such HMOs unless they are expressly excluded by preceding paragraph 9.2. Some HMOs fall within Use Class C4 – these are HMOs occupied by 3 - 6 people, mostly in the private rented sector. Policy DP9 applies to development that creates additional shared homes in Use Class C4 (where the development is subject to planning control). However, permitted development rights enable a flat or house in Use Class C4 to be occupied lawfully as a self-contained dwelling in Use Class C3 without submission of a planning application. Consequently:

- where additional shared homes in Use Class C4 are proposed and this is subject to planning control, in addition to applying policy DP9, we will consider the development in terms of policies relating primarily to self-contained housing (particularly policies DP3, DP5 and DP6);
- in order to secure a long-term supply of housing suitable for young adults with a limited income, where additional shared homes in Use Class C4 are proposed, are subject to planning control, and are supported in terms of the considerations set out in policy DP9, we will consider using planning conditions to remove the permitted development rights that allow a change to self-contained housing in Use Class C3; and
- we will not apply policy DP9 to a change of use from Use Class C4 to Use Class C3 unless we have removed the relevant permitted development rights.

9.4 Policy DP9 is not concerned with shared homes in Use Class C3 (this includes most dwellings where no more than 6 people live as a single household) because they can be occupied as self-contained housing, and we consider them in terms of the development policies relating primarily to self-contained housing (particularly policies DP3, DP5 and DP6).



- 9.5 Private rented housing, including bedsit rooms, makes up a large part of the housing available to students and other young adults. The growth we anticipate in student numbers could place severe strain on the stock of private rented housing, and so the Council supports the development of student housing in some circumstances. However, as indicated in Core Strategy policy CS6, we will seek to ensure that the development of student housing and other housing with shared facilities does not prevent development to meet Camden's other housing needs.

**Policy DP9: Student housing, bedsits and other housing with shared facilities**

The Council will support development of housing with shared facilities (other than housing designated for older people, homeless people or vulnerable people) and student housing provided that the development:

- a) will not involve the loss of permanent self-contained homes;
- b) will not prejudice the supply of land for self-contained homes, or the Council's ability to meet the annual target of 437 additional self-contained homes per year;
- c) does not involve the loss of sites or parts-of-sites considered particularly suitable for affordable housing or housing for older people or for vulnerable people, particularly sites identified for such provision in our Camden Site Allocations Local Development Framework document;
- d) complies with any relevant standards for houses in multiple occupation (HMOs);
- e) will be accessible to public transport, workplaces, shops, services, and community facilities;
- f) contributes to creating a mixed and inclusive community, and
- g) does not create an over-concentration of such a use in the local area or cause harm to residential amenity or the surrounding area.

Student housing development should:

- h) serve higher education institutions based in Camden or adjoining boroughs;
- i) be located where it is accessible to the institutions it will serve; and
- j) include a range of flat layouts including flats with shared facilities.

The Council will resist development that involves the net loss of student housing unless either:

- k) adequate replacement accommodation is provided in a location accessible to the higher education institutions that it serves; or
- l) the accommodation is no longer required, and it can be demonstrated that there is no local demand for student accommodation to serve another higher education institution based in Camden or adjoining boroughs.

The Council will resist development that involves the net loss or self-containment of bedsit rooms or of other housing with shared facilities unless either:

- m) it can be demonstrated that the accommodation is incapable of meeting the relevant standards for houses in multiple occupation, or otherwise genuinely incapable of use as housing with shared facilities; or
- n) adequate replacement housing with shared facilities will be provided that satisfies criteria d), e) and f) above; or
- o) the development provides student housing that satisfies criteria d) to i) above; or
- p) the development provides self-contained social rented homes.

Where the Council is satisfied that a development involving the loss of student housing, bedsit rooms or other housing with shared facilities is justified, we will expect the development to provide an equivalent amount of residential floorspace for permanent housing in Use Class C3, including an appropriate amount of affordable housing, having regard to policy DP3.

- 9.6 Policy DP9 sets out basic criteria for assessing proposed housing with shared facilities and student housing, including the appropriateness of the location. Many criteria are aimed at protecting the existing and future supply of self-contained homes, affordable housing and housing for vulnerable people. In accordance with Core Strategy policy CS6, we will resist any proposals for housing with shared facilities and student housing that would prevent us meeting the annual target of 437 additional self-contained homes. However, the Council acknowledges that in some cases, a site may be more appropriate for student housing or other housing with shared facilities than it is for self-contained homes, having regard to the character of the site and constraints affecting it.
- 9.7 As indicated in paragraphs 3.2 and 3.3, policy DP3 on affordable housing does not apply to student housing or the other forms of housing considered by policy DP9. However, Policy DP2 and accompanying paragraphs 2.14 to 2.16 indicate that we will resist alternative development of sites or parts of sites considered particularly suitable for affordable housing or housing for older people or vulnerable people. Any proposal for housing with shared facilities or for student housing on such a site would need to make appropriate provision for affordable housing or housing for vulnerable people.
- 9.8 In accordance with the Housing Act 2004, the Council has agreed minimum standards for houses in multiple occupation, which apply to specific types of housing including some housing with shared facilities and student housing that is not provided by an educational institution. These standards set minimum sizes for bedroom, bathroom and kitchen areas, and the minimum facilities that should be provided for occupiers. We will resist proposals for housing with shared facilities and student housing that fail to comply with the relevant minimum standards.
- 9.9 The creation of mixed and inclusive communities can be a particular consideration where housing with shared facilities and student housing is proposed. These types of housing are often associated with a concentration of relatively short-term residents, and can be unwelcome in an established community. Specific concerns can include noise disturbance, over-crowding on public transport, or the loss of shops and services that meet the needs of longer term residents. These concerns can be particularly acute where higher education facilities are clustered such as in Camden's Central London Area. The Council is committed to supporting residential communities in Central London, and to balancing the requirements of the higher education sector with those of the local community (Core Strategy policies CS5, CS9 and CS10). The Council will assess proposals for housing with shared facilities and student housing having regard to any existing concentrations in the area, and the wider housing mix in the community. We will also consider the impact of new occupiers on local services. Where proposals for housing with shared facilities or student housing are likely to disturb the balance of the community because of their scale or because of an existing concentration, the Council may seek mitigating measures such as the provision of self-contained general needs housing on part of the site, including affordable housing. Where appropriate mitigation cannot be secured, the Council will resist proposals that would harm the balance of the community or prevent the local community's requirements from being met.
- 9.10 All housing should be located so it that its occupiers have access to public transport, workplaces and services. Student housing serving an individual institution can have a significant impact on a single public transport route, so we will also expect student housing to be located within walking or cycling distance of the institutions it serves, or to be accessible to them by public transport services that have existing or committed capacity to accommodate the demand generated by the development.
- 9.11 Student housing has the potential to mitigate pressure on the stock of private rented homes in Camden provided that it is genuinely aimed at higher education students in

the area. The Council will use design mechanisms, conditions or legal agreements as appropriate to prevent lease or sale of the accommodation as general market housing, and to limit their term-time occupation to students registered at higher education institutions that are based in Camden or the adjoining boroughs and supported by the Higher Education Funding Council for England. We will seek a range of accommodation within each student housing development, subject to the site size, the extent of the floorspace, and constraints on the layout of the housing. To ensure that student accommodation is attractive to groups who would otherwise share private rented homes, where practical we will expect developments to include clustered study-bedrooms with some shared facilities, as well as self-contained flats.

- 9.12 Given the anticipated growth of full-time students attending higher education institutions in the borough and the potential strain on the private housing stock, we will seek to protect existing student housing provision unless it has been replaced or there is no longer a demand for it. Where the loss of student housing is justified, alternative development should provide an equivalent amount of permanent and self-contained housing in accordance with policy DP2, and include an appropriate contribution to affordable housing in accordance with policy DP3.
- 9.13 Private rented homes, and particularly bedsit rooms that share communal facilities, are considered to be the main sources of housing for young adults with a limited income. A comparison of 1991 and 2001 Census data suggests that there has been a large reduction in the amount of shared accommodation in Camden in recent years. On the basis of the Camden Private Housing Conditions Survey 2004, we estimate that there are 950 shared dwellings divided into bedsit rooms, occupied by just over 3,000 households. Of all dwellings with shared facilities, the 2004 survey found that 77.7% were privately rented. We therefore seek to retain the remaining provision of bedsit rooms as far as possible.
- 9.14 The Council has space standards for self-contained residential accommodation, set out in our Camden Planning Guidance supplementary document. As noted in paragraph 9.7, the Council has also agreed minimum standards for houses in multiple occupation, which apply to specific types of housing including some housing with shared facilities such as bedsit rooms and hostels. Space standards for self-contained residential accommodation are very much higher than space standards for bedsits provided as part of a house in multiple occupation. Existing bedsits are not usually large enough to provide for self-containment without a significant change to the layout of the dwelling, a reduction in the number of bedsits, and an increase in the cost of the accommodation to its occupiers. The Council will therefore resist proposals for self-containment of bedsits in most cases.
- 9.15 Current standards for bedsits and other housing with shared facilities are more demanding than those operating prior to the introduction of the Housing Act 2004. Consequently, some of this accommodation is unlikely to meet current standards, and may require extensive and costly works refurbishment or conversion to meet them. Where it can be demonstrated that accommodation with shared facilities is incapable of meeting the minimum standards, the Council will not resist its development for an alternative form of housing.
- 9.16 Where a property is unused and has a history of vacancy, the Council will consider other factors that may render the property genuinely incapable of use as housing with shared facilities. If a property has been vacant for several years the Council will actively seek its return to use, and may seek to secure its use for the groups and priorities identified in the Core Strategy, such as homeless people and vulnerable people. Where self-containment is accepted, the Council may also seek to secure the availability of some or all of the property at rents substantially below the cost of market housing. In

considering the appropriate form of restoration, the Council will consider the prospect of investment coming forward to make the property suitable for occupation as housing with shared facilities, the potential rental return from the property, and the cost of restoring the property to use, having regard to any fixtures and fittings removed from the property by the owner.

- 9.17 Proposals to replace existing bedsit accommodation, or other housing with shared facilities, usually involve relocating it into an existing self-contained dwelling, and converting the shared accommodation into one or more larger self-contained homes. Such swaps can help a developer or owner to meet a demand for self-contained accommodation in a particular location, to provide bedsits in a property that can more easily meet contemporary standards, or to maximise the value of dwellings in their control. The Council will not resist such swaps as long as the replacement bedsits are in an appropriate location, represent equivalent or better accommodation (in terms of the number of bedsits, the floorspace, and the standard of facilities and amenities), and are secured by a legal agreement.
- 9.18 There is a significant overlap between those who occupy privately rented bedsits and the occupiers of student housing. The conversion of bedsits or other shared accommodation into student housing has the potential to fund works to bring accommodation up to contemporary standards. The Council will not resist such a conversion if it meets the relevant criteria for the provision of student housing.
- 9.19 There is a small stock of social rented housing in the borough that takes the form of bedsit rooms with communal facilities. Bedsits in the social rented sector are unpopular with tenants, especially given the absence of any choice over the people that share the communal facilities. Also, small dwellings are over-represented amongst Council housing. Bedsits in the social rented sector are unpopular with tenants, especially given the absence of any choice over the people that share the communal facilities. Therefore, we will not resist the self-containment of social rented bedsits, subject to the protection of the overall housing floorspace and compliance with the Council's space standards for self-contained accommodation.
- 9.20 In some cases, properties in Camden have been subdivided into flats that are not self-contained because the layout of entrance halls and staircases made self-containment difficult or costly. Where these flats are not let out as bedsits, do not share facilities other than circulation spaces, and are large enough to meet Camden's space standards for self-contained residential accommodation, the Council will not resist proposals to convert the properties into wholly self-contained flats. Where such proposals would result in a loss of homes, they will be considered against policy DP2.
- 9.21 Where it can be demonstrated that accommodation with shared facilities is incapable of meeting the minimum standards for houses in multiple occupation, and there are no proposals to replace it or develop it as student housing, we will expect its development for self-contained general needs housing, including an appropriate proportion of affordable housing. We will consider the appropriate proportion of affordable housing having regard to the criteria set out in policy DP3. We will resist proposals for non-residential development in accordance with policy DP2, and will seek to retain any existing affordable housing in accordance with policy DP4.

**Key references / evidence**

- Camden Housing Needs Study Update 2008
- Camden Private Sector House Condition Survey 2004
- The London Plan (consolidated with Alterations since 2004); Mayor of London; 2008
- Planning Policy Statement (PPS) 3 - Housing

**Appendix 3 – Building Report prepared by Aston Rose Chartered Surveyors**

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**Building Report**

**49 Fitzjohn's Avenue  
London  
NW3 9PG**

**prepared for  
Sony Douer**

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**August 2013**

**Aston Rose  
35c North Row  
London W1K 6DH**

## **Executive Summary**

49 Fitzjohns Avenue is currently used as a single household by a community of sisters. The number of occupants has varied over the years between 8 and 15. The residents live together as a single household and eat meals together. The current planning use is deemed to be sui generis.

The property is not suitable for a HMO license as it falls short in numerous areas of the minimum HMO standards set out by the Environmental Health and Planning Services. The most notable shortfalls are the small bedrooms, inadequacy of the protected stairwell and lack of kitchen facilities, which are suitable for use as a dwelling house but not for a HMO.

If the property was retained as a large dwelling with multiple occupants, numerous bedrooms would be made redundant as the number of occupants would be limited due to the lack of kitchen facilities. If the property was to be divided into numerous self-contained flats then large amounts of extensive upgrades would need to be carried out in order to make the property suitable for a HMO license.

In my opinion the property is currently not suitable as a large dwelling for multiple occupants and is also not suitable to be sub-divided into multiple self-contained dwellings under a HMO license.

## **Introduction**

An instruction was given to Aston Rose to assess the property 49 Fitzjohns Avenue regarding its current class use and its eligibility for a HMO license.

A visit was made to the property on 14<sup>th</sup> August 2013 to carry out an inspection. The conditions at the time of the inspection were warm with sunny spells.

No opening up works were carried out and no testing of any mechanical and electrical services were carried out at the time of the inspection.

## **General Description**

The buildings original use would have been residential as a single dwelling house and it comprises of five storeys (including basement) with a variety of rooms in the roof space.

The building is constructed of solid brickwork walls, floors are likely to be suspended timber, windows are single glazed timber sliding sash units and there are a variety of roofs including a main tiled pitched roof and various flat roofs, some of which form balconies.

## **Assessment of Criteria for HMO**

Each element of criteria for a HMO license has been individually evaluated to assess whether it currently meets the criteria set out by the Environmental Health and Planning Services. Where criteria do not meet current HMO standards,

suggestions are made to upgrade the building and comments given as to indicate the complexity of the upgrade.

#### Fire Alarm System

A grade A LD2 system would be required to ensure the fire alarm system was adequate for a HMO if the current layout was retained. If the building was split into numerous self-contained flats then new fire alarm systems would need to be installed in each dwelling and interlinked with all systems.

#### Electrical system

The original electrical system is estimated to be 50 years old and has been added to numerous times over the years. The latest periodic inspection report has highlighted numerous items which require immediate remedial action and also numerous items that require urgent remedial action.

This is unsuitable for a HMO and all items will need to be remedied in order to make the property suitable for multiple occupation. If the building was split in to multiple self contained flats then the electrical system would need to be split into individual dwellings rather than as single household as it currently is. This would be very costly and would probably require a lot of the old wiring to be replaced.

#### Heating facilities

The Environmental Health and Planning Services states that there must be adequate structural thermal insulation to the building. As the walls are constructed of solid brickwork with no cavity, the walls more than likely have no insulation and would fall well short of any recommendations in Part L of the Approved Documents. Upgrading the walls to meet current building regulations would be very difficult but some insulation could be added to the internal face of the structural walls. This would however require the walls to be skimmed and decorated afterwards which would be very costly.

The heating system is currently set up as an individual system to service one large family dwelling. If the property was to be split into numerous self-contained flats the heating system would not be suitable and would have to be replaced with small units to service each flat. The current set up is therefore not suitable for a HMO and to change the system would be a costly and disruptive item.

#### Protected stairwell

The stairwell does not meet minimum HMO standards due to the doors not being 30 minute fire doors. To upgrade the doors, closers and intumescent strips would need to be added.

In addition, numerous storage facilities are located throughout the stairwell, which are not suitable for a HMO.

#### Kitchen facilities

The kitchen facilities at 49 Fitzjohns Avenue are inadequate. A maximum of five individuals are allowed to share a kitchen and as there is currently only one kitchen limits the number of occupants to five under minimum HMO standards unless another set of kitchen facilities is provided. As the existing occupants lived



together as one household rather than under a HMO license there was no need for any additional kitchen facilities to accommodate the larger number of occupants.

#### Bathroom facilities

Inadequate mechanical ventilation is provided to most bathroom facilities. The Environmental Health and Planning Services recommends that mechanical ventilation should be provided to each WC compartment with 15 minutes over-run time and capable of extracting to the external air at a rate of not less than 4 air changes per hour.

#### Bedroom Sizes

Numerous bedrooms within 49 Fitzjohns Avenue are of an inadequate size to meet minimum HMO standards. If a HMO license was applied for then these rooms would in essence be completely redundant as they would become unusable space. Even if the property was divided into self-contained flats, a number of bedrooms would still be completely redundant as their floor space is too small to meet HMO standards.

### **Conclusion**

After visiting the property and assessing HMO criteria 49 Fitzjohns Avenue is not suited to being used as a HMO. In order to make the property suitable extensive layout changes and upgrades would have to be made.

The property has historically never been used as a HMO; it has always been used as a dwelling house by the community of Sisters.

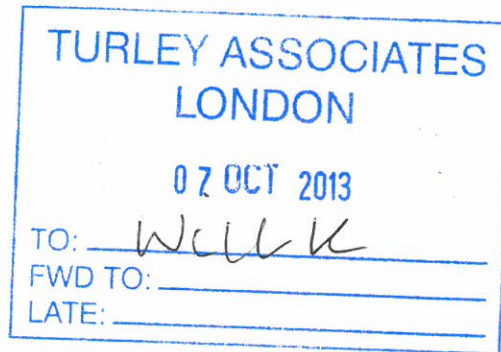
## **Appendix 4 – Letter from Sister Sarah Dobson**

From the Local Superior

Congregation of Jesus  
49 Fitzjohn's Avenue  
Hampstead  
London  
NW3 6PG  
tel: 020 7472 0103

5 October 2013

email: [sarah@dobsoncj.freemove.co.uk](mailto:sarah@dobsoncj.freemove.co.uk)



TO WHOM IT MAY CONCERN

Dear Madam/Sir

**Re: The Community of Sisters formerly resident at the address above**

I am writing to confirm that I have read the attached planning application and that all the statements in the application about the previous use of the house are factually correct. The English Province of the Congregation of Jesus, formerly known as the Institute of the Blessed Virgin Mary, owned this house from 1936 to 30 September 2013.

Yours faithfully

(Sr) Sarah Dobson cj  
Local Superior and Trustee, Congregation of Jesus Charitable Trust

New contact details:  
Congregation of Jesus  
244 Willesden Lane  
London NW2 5RE  
020 8459 5378

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