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Dear Sir/Madam

12 Ainger Road, London, NW3 3AE
Certificate of Lawful Existing Use or Development

On behalf of our client, Centrepoint (Soho) Ltd, we are instructed to submit an application for a Certificate of Lawful Existing Use in relation to the above named site.

Specifically, this is to confirm the existing lawful use of the property as:

“Existing use of the property as 4 x Class C3 Residential Flats”

The application, and supporting evidence, demonstrates, in accordance with the tests set out within Section 191 of the *Town and Country Planning Act 1990* (as amended) that the lawful existing use of No. 12 Ainger Road is Class C3 Residential Use and that it has continued to be used in accordance with appropriate planning permission first granted in 1991.

Accordingly, in addition to this covering statement please find enclosed the following documents:

- The completed application form;
- A site location plan;
- Existing plans, confirming the layout of the property;
- A letter from Centrepoint, confirming their historic use of the property and their current circumstances;
- Relevant records from the property’s planning history, including plans and decision notices;
- A selection of tenancy agreements for residents of the property; and
- A summary of Council Tax records for the property.

Please note that any information containing personal details should remain confidential and not be made available for public view. We would therefore be grateful for assurance that such documentation will not be placed online.

The relevant application fee of £195 will be paid online/by phone.

It should be noted that this submission is not being made because the existing use of the property is different to that which was lawfully implemented under the terms of relevant planning permissions. Instead, given the



specific circumstances of the Applicant and the tenants that have occupied the flats within the property this certificate is sought to confirm the existing unfettered Class C3 residential use as four flats.

Legislative Background

The tests set out under of Section 191 of the *Town and Country Planning Act 1990* (as amended) are discussed in the National Planning Practice Guidance. Specifically, the chapter on Lawful Development Certificates sets out the following in regard to considering applications for a Certificate of Lawfulness for an Existing Use:

“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land.”

“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.”

In this case, the existing use as four self-contained flats has continued for more than twenty years, in accordance with planning permission first granted in 1991. This submission is made in order to provide confirmation of the lawfulness of this use.

It should be reiterated that this submission does not seek to regularise an existing use of the property that does not accord with the terms of relevant planning permissions. Instead, given the specific circumstances of the applicant a certificate is sought to confirm that the ongoing use of the property for general Class C3 accommodation over more than 20 years is in accordance with the terms of the existing planning permission.

Appropriate evidence to support this submission is therefore provided in this context.

Context for Application

The application site is currently owned by Centrepoint (Soho) Ltd, a registered charity under number 292411 and a housing association registered under number H1869. The property has been used for more than 20 years to provide semi-independent living for young people as a part of Camden Council’s young persons’ supported accommodation pathway.

The property allowed young people to experience independent living before moving on into other accommodation outside of the supported living pathway. However, although residents would receive support and advice from visiting members of Centrepoint staff, such support staff never resided within the building and did not offer permanent on-site care or support.

The properties remained part of the Council’s supported accommodation pathway until April 2015. However, due to recent funding cuts the ongoing contract with Centrepoint to provide this accommodation at this site has ended. As such, the property is now surplus to requirements, with the last tenants leaving the property on 1 August 2015 and being re-housed elsewhere in the borough.

It was a requirement of the previous funding for this service that upon its conclusion Centrepoint cannot retain the property for use as general needs housing and must also look for opportunities to make best use of the properties to ensure further funding for alternative projects.

As such, it is now the intention of the Applicant to dispose of the property. In order to do this, clarification of the building’s lawful use as four self-contained Class C3 residential units (in accordance with relevant planning permissions) is sought.

Use Class of the Property

In planning terms, the use of land and buildings is categorised into various 'use classes'. These classes are laid out within the *Town and Country Planning (Use Classes) Order 1987* (as amended, with the most recent amendments made in April 2015).

In this case, the relevant use class is Class C3, 'dwelling houses'. This is defined under the Use Class Order as:

'Use as a dwellinghouse (whether or not as a sole or main residence) by –

- a) A single person or by people to be regarded as forming a single household;*
- b) Not more than six residents living together as a single household where care is provided for residents; or*
- c) Not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).'*

Class C4 comprises of *'Use of a dwellinghouse by between three and six residents as a "House of Multiple Occupation"*'. Such a use also has a 'permitted development' right to change to Class C3 use without requiring formal planning permission. This right is not applicable to a larger House of Multiple Occupation where more than six residents share communal facilities.

It is considered that the lawful use of the property is as four self-contained Class C3 residential units. Relevant evidence to confirm this is set out below.

Planning History

We have undertaken a review of the London Borough of Camden's online planning register. We provide a summary below of those considered to be of particular relevance to this application.

- In **June 1991** an application was granted planning permission for *"Change of use and works of conversion to provide 3 x 1- bedroom self-contained flats on the basement ground and first floors and a self-contained maisonette on the second and third floors including the provision of a dormer window on the roof of the front elevation and the addition of a velux window on the rear elevation as shown on drawing nos. 2337/10 06 11A 02A. revised on 26.03.91"* (LPA Ref: 9005775)
- In **November 1992** an application was refused planning permission for *"Retention of alterations to size and location of dormer in the front roof slope as shown on drawing nos. 2337/17C 10A."* (LPA Ref: 9201086)
- In **June 1993** an application was granted planning permission for *"Alterations to an existing front dormer as shown on drawing nos. 2337/18 2337/100 101 102 103."* (LPA Ref: 9300141)

The planning history for the building therefore shows the permitted use of the building as Class C3 Residential arranged as three 1-bedroom self-contained flats at each of lower ground, ground and first floor levels and then a 2-bedroom maisonette across both second and third floor levels.

It is also worth noting that the original planning permission was granted to Circle 33 Housing Trust and then the subsequent amendment granted in 1993 to the current Applicant, Centrepont (Soho) Ltd. Throughout the life of the current planning permissions, it has been clear that the use of the property as four self-contained Class C3 units was through Centrepont.

Despite this, there is no evidence of a condition on the planning permission that would restrict the use of the property as four self-contained units to Centrepont personally. The permission therefore allows for an unrestricted use of the flats for general needs housing within Class C3.

The property has recently been resurveyed. A further set of floorplans has been prepared and are submitted as part of this application. These recently drawn plans are not materially different from those which were originally approved in 1991 and confirm that the property has continued to be used in accordance with the terms of this earlier permission.

In summary, from the information set out within the planning permission granted in 1991 the following can be confirmed:

- *The application form states that the property will comprise residential flats for rent.*
- *The drawings submitted comprise individual self contained flats with individual bedroom, living, kitchen and bathroom space with no shared or communal space.*
- *There are no conditions controlling the use of the premises within the Decision Notice.*
- *There is no correspondence on file indicating that the intent of the planning permission was to be anything other than as C3 Residential.*
- *Following applications within the planning history for works at No.12 state the use of the building is "Residential".*

The planning history records are therefore very clear in supporting the lawful use of the building as four unrestricted self-contained dwellings. Given that the property in its current form reflects that which was approved in 1991, it is clear that the existing use is in conformity with that which was approved more than 20 years ago.

Council Tax Records

A review of the relevant online records have confirmed that Council Tax has been paid on individual flats within the building and not as a single property encompassing the entire building. Copies of the relevant records are provided as part of this submission.

This division of the liability to pay Council Tax on the basis of individual flats is further evidence that the existing use of the property is in accordance with the planning permission which was granted in 1991.

Tenancy Agreements

A sample of tenancy agreements between Centrepont and individuals who have resided at one of the flats within the building has been provided. In each case, the agreement relates to a specific flat and not to the property as a whole.

Such tenancy agreements provide further evidence of the way in which the flats have been operated by Centrepont as landlord to the property. Each flat has been serviced through specific tenancy agreements with individual tenants signing for accommodation within a specific flat and not just within the larger property. This therefore reflects the physical layout of the property as per the approved plans.

Evidence on Site

There is considerable physical evidence on-site which confirms that the property is being used as four self-contained Class C3 residential units as per the existing planning permission.

For example:

- *The property's layout has been implemented in line with the permitted drawings and is laid out as self contained units behind individual front doors;*
- *The units have separate door bells and post boxes externally;*
- *Internally, each of the four flats has a secure and locked front door to prevent access by occupiers of other flats within the buildings;*
- *Each flat is self-contained in terms of providing kitchens and bathroom facilities;*
- *Beyond access hallways and corridors, there are no communal facilities provided; and*
- *There is no space or facility for providing care on-site.*

Photographs of a number of these elements are provided below.



12 Ainger Road - Doorbells to individual flats on lower ground, ground, first and second floor level (Left); Example of an individual kitchen within each flat (Middle); and Example of a locked front door to each flat (Right)

The physical layout of the site therefore confirms the continuing use of the property as four self-contained Class C3 residential flats.

Use of One Flat as Office Accommodation

It must be noted that at the time that Centrepoin't's use of the property ceased, the self-contained residential unit at first floor level was in use as an office by Centrepoin't staff. This was therefore not in accordance with the relevant planning permission for the use of this unit as a Class C3 residential flat.

No alterations to the unit were made in supporting an office use and the overall layout of the unit clearly remains as a Class C3 self-contained unit with distinct living, kitchen and bathroom areas. The space has been utilised 'as is' to provide accommodation for a small number of Centrepoin't staff members.

Under the Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991, development becomes effectively lawful (that is, exempt from enforcement action) following a set number of years.

The Planning and Compensation Act 1991 introduced rolling time limits within which local planning authorities can take planning enforcement action against breaches of planning control. The time limits are:

- *four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed;*
- *four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken; and*
- *10 years for all other development. The 10 year period runs from the date the breach of planning control was committed.*

Once these time limits have passed, the development becomes 'lawful' in terms of planning and enforcement. However, until this time limit is reached then the lawful use remains that which was granted under the terms of the relevant planning permission. In this case, the lawful use of the first floor unit would remain as Class C3 residential until such time as an office use had been in place for ten years or more.

Following a conversation with the business rates department at Camden Borough Council it is our understanding that the office use began paying business rates on the 9th April 2007. This date is confirmed by a record of the previous rating of the property for Council Tax being deleted at the same time – a copy of this record is included as a part of this submission.

Given the above, it is clear that the office use of this unit began only eight years ago and as such the 'cut-off' date in accordance with the terms of the Town and Country Planning Act (as amended) has not been exceeded. The lawful use of this part of the property remains as Class C3 residential (in accordance with the terms of the planning permission granted in 1991) and as such the property as a whole remains in lawful use as four self-contained Class C3 residential units.

It should also be noted that this office did not house staff providing specific support to residents in the remaining flats within the building. This served a wider administrative function for Centrepoint beyond the individual building and was not a form of provision of on-site care for residents in other flats.

Conclusions

This submission has been made in order to provide confirmation to the Applicant, Centrepoint (Soho) Ltd, that their use of the property for more than 20 years to support Camden Council's young persons' supported accommodation pathway has been in accordance with the lawful use of the property as four self-contained Class C3 dwellings that was granted planning permission in 1991.

The following evidence all confirms that this is the case:

- The internal layout of the building is in accordance with that shown on the approved drawings in 1991;
- Other physical manifestations on the building such as individual doorbells and letterboxes show that there are four flats within the building;
- Each flat is fully self-contained in terms of bathrooms and kitchens;
- There are no communal facilities other than entrance corridors and hallways;
- No restriction has ever existed requiring the use to be limited to Centrepoint (Soho) Ltd only, thus allowing the property to be used for general needs housing;

- All relevant records (tenancy agreements, Council Tax records) address individual flats within the building and not the property as a single dwelling;

When all of this evidence is considered together, it is clear that the existing lawful use of the property remains that of being four self-contained Class C3 residential dwellings in accordance with the detail that was first granted permission in 1991. It is therefore clear that the property could be used by any party in accordance with the approved details.

I trust that everything is in order and that the relevant certificate to confirm the existing use can be issued. Please do use the contact details set out at the head of this letter if you would like to discuss this matter further.

Yours faithfully

A handwritten signature in cursive script, appearing to read "Savills", positioned above the typed name of the signatory.

Nigel Dexter
Senior Planner