



Planning & Development Ltd

**JMS PLANNING & DEVELOPMENT LIMITED**

**STATEMENT IN SUPPORT OF A CERTIFICATE OF LAWFULNESS**

**TO CONFIRM THE USE OF**

**24 WEDDERBURN ROAD**

**LONDON**

**NW3 5QG**

December 2018

Client: Akelius UK Twelve Ltd

Date: December 2018

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APPENDIX C:	Statutory Declaration of Mr Iven Titelbaum dated 16 November 2018

## SECTION 1: INTRODUCTION

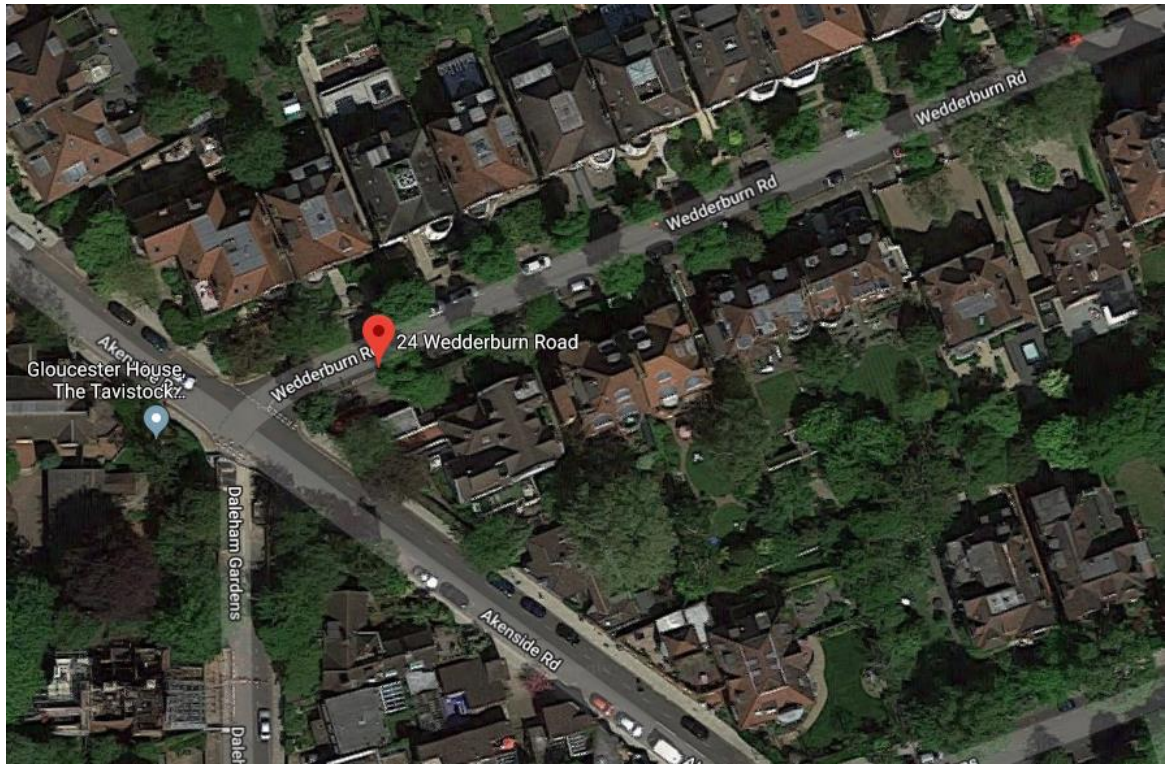
- 1.1 This Statement has been prepared on behalf of Akelius UK Twelve Limited by JMS Planning & Development Ltd in respect of an application for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) in order to confirm the existing lawful use 24 Wedderburn Road, London, NW3 5QG ('the site') as 25 self-contained residential units.
- 1.2 Akelius UK Twelve Limited forms part of Akelius Residential Limited (Akelius) which is a major international owner and manager of rented residential (Use Class C3) and HMO accommodation. Akelius is now a significant owner of such accommodation within London currently owning and managing some 115 buildings and more than 2,200 units throughout London. Within the London Borough of Camden (LB Camden), Akelius is now a principle owner and manager of rented residential (Use Class C3) and HMO accommodation. Full details of the Company are set out within the following Section.
- 1.3 Akelius now intends to refurbish and improve these buildings to the benefit of the Borough's residents thereby providing improved housing stock within LB Camden. As part of this process and in line with best practice elsewhere, the Company has reviewed the planning status of its acquisition. Whilst the site has been in residential (Use Class C3) use for many years, the planning history is, in parts, unclear. As such, in accordance with good practice, the Company wishes to submit a CLEUD to regularise the use of 24 Wedderburn Road, London, NW3 5QG.
- 1.4 Accordingly, this Statement sets out the comprehensive justification in respect of the proposed CLEUD and confirms that on the "*balance of probability*" that the use of 24 Wedderburn Road, NW3 5QG as 25 self-contained residential units should be considered to be lawful.

## **SECTION 2: AKELIUS RESIDENTIAL**

- 2.1 Akelius buys, upgrades and manages residential properties. The Company owns 50,000 apartments in Sweden, Germany, France, Canada, England, the United States and Denmark. The properties are located in major urban cities with strong potential for growth, including London. The Company was founded by Roger Akelius in 1994 and the first investment in London was made in 2011.
- 2.2 Akelius focuses on residential properties in attractive cities with strong growth and the potential of upgrading. The Company's property holdings amount to EUR 12 billion. Some 91 per cent of the apartments are located in cities with more than one million inhabitants such as Berlin, Hamburg, Munich, Paris, London, Toronto, Montreal, New York, Boston, Washington, Stockholm and Copenhagen. Akelius is the largest listed real estate company in Sweden.
- 2.3 The Akelius Foundation, a registered charitable organisation, owns 90% of the Company and Akelius is the world's largest donor to SOS Children's Villages. The remaining 10% of the shares are owned by Roger Akelius through a company and 15,000 preference shareholders.
- 2.4 An important part of Akelius' concept is better living. This means that Akelius upgrades residential units to first class level, corresponding to a quality which is equivalent with newly constructed apartments. Akelius only upgrades vacant apartments.
- 2.5 Akelius is amongst the best in the world to upgrade apartments and public areas. Every year Akelius renovates 4,000 apartments at an annual cost of circa £2billion. The Company also renovating façades, staircases, entrances and courtyards of the properties. No other real estate company upgrades at the same pace.
- 2.6 The Company's apartments are significantly upgraded and are fitted with quality kitchens from Nobilia, with appliances manufactured by Bosch and Siemens. A parquet floor is provided by Swedish company Kährs. The bathrooms are fitted with sanitary porcelain from Gustavsberg and Keramag. In addition, the concept of better living also includes excellent security. In addition, to a high quality fit out, Akelius wants its tenants to feel safe in and near their home.

## **SECTION 3: THE SITE AND SURROUNDING AREA**

- 3.1 The application site is located on the northern side of Wedderburn Road which runs east/west from Haverstock Hill (A502) through to Akenside Road. The site comprises a sizable red brick detached property over four storeys and comprises 25 self-contained residential units.
- 3.2 Wedderburn Road is an attractive tree lined road within the Fitzjohn's/Netherhall Conservation Area comprising of similar sized detached and semi-detached red brick properties.
- 3.3 The site has a Public Transport Accessibility Level (PTAL) of 5.
- 3.4 The Fitzjohn's/Netherhall Conservation Area was initially designated in 1984. In 1988 Daleham Gardens, part of Lyndhurst Road, Greenhill, Prince Arthur Road and Eldon Grove were added. A number of further elements were added in 1991 and 2001. The conservation area is divided into two sub-areas, one centred on Fitzjohn's Avenue and the second centred around Thurlow Road.
- 3.5 The conservation area sits on the southern slopes of Hampstead between Rosslyn Hill and Finchley Road. The street layout of the conservation area is dominated by Fitzjohn's Avenue running through the centre amid the parallel streets to the east and west of it. Finchley Road and Hampstead High Street/Rosslyn Hill form the west and east boundaries. Overall the urban grain is of large houses with generous gardens surrounded by the denser areas of Hampstead Village, Belsize Village and Finchley Road.
- 3.6 The site is and is located within Flood Zone 1, ie the site is not situated in an area liable to flooding.



**Photograph 1: Aerial View of the site**



**Photograph 2: Front Elevation of 24 Wedderburn Road**



**Photograph 3: Back Elevation of 24 Wedderburn Road**



## SECTION 4: PLANNING HISTORY

4.1 An online review of the site's planning history has been undertaken which is detailed below:

Application Reference	Proposal	Decision	Dated
2016/5606/T	REAR GARDEN: 2 x Sycamores - Pollard trees by removing approximately 5m from the height and approximately 4m	No Objection to Works to Tree(s) in CA	29-11-2016
2015/2350/T	DD - REAR GARDEN: 2 x Purple Plum - Fell - DD	No Objection to Works to Tree(s) in CA	22-05-2015
2012/6448/T	REAR GARDEN: 1 x Lombardii Poplar - Fell to ground level	No Objection to Works to Tree(s) in CA	10-01-2013
34140R1	Alterations to the roof space to provide one additional self-contained flat, including the erection of dormer windows at the front, rear and side	Granted with conditions	11-08-1982

4.2 The above table represents all the planning history that is available online. The above planning history confirms that the last identified use of the site is as residential flats (Use Class C3).

## SECTION 5: LEGAL APPROACH

- 5.1 A Certificate of Lawful Use submitted under Section 191 or 192 of the Town & Country Planning Act 1990 (as amended) must be granted where the local planning authority is provided with information satisfying them of the lawfulness, at the time of the application, of the use described in the application. In all other cases, they must refuse the application.
- 5.2 The issue of Lawful Development Certificates is considered specifically within the National Planning Practice Guidance (NPPG). It is confirmed that anyone can apply to the local planning authority to obtain a decision on whether an existing use or development, or a proposed use or development is lawful for planning purposes or not. If the local planning authority is satisfied that the appropriate legal tests have been met, it will grant a Lawful Development Certificate. It is confirmed that an application needs to describe precisely what is being applied for (not simply the use class) and the land to which the application relates. Without sufficient or precise information, a local planning authority may be justified in refusing a Certificate. This does not preclude another application being submitted later on if more information can be produced.
- 5.3 The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to cooperate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvas evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter evidence.
- 5.4 In the case of applications for an existing use, if the 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. This has been supported by the Courts which have held that an applicant's own evidence does not need to be corroborated by "*independent*" evidence in order to be accepted (F.W. Gabbitas v. S.F.E. & Newham LBC [1985]). It is noted that this test "*on the balance of probability*" is significantly less onerous than the criminal test of "*beyond reasonable doubt*". It is confirmed that a local planning authority needs to consider whether,

on the facts of the case and relevant planning law, the specific matter is, or would be lawful. Planning merits are not relevant at any stage.

- 5.5 It is considered that the Applicant has submitted comprehensive information to justify the lawful use as 25 self-contained residential units of 24 Wedderburn Road, London on the “*balance of probability*”. Full details for the justification for issuing a Certificate is set out in the following Section.

## SECTION 6: JUSTIFICATION FOR ISSUING A CERTIFICATE

6.1 This Section sets out the evidence submitted to justify on the “*balance of probability*” the lawful use of the subject property.

### Existing Arrangement

6.2 24 Wedderburn Road is currently laid out as 25 self-contained flats. The numbers on the plan reflects the postal addresses of the properties. These are illustrated on the following drawings which are attached as part of the application submission, namely:

- Existing Basement Plan (Drawing Ref: CAD/WB/AK/25);
- Existing Ground Floor Plan (Drawing Ref: CAD/WB/AK/26);
- Existing First Floor Plan (Drawing Ref: CAD/WB/AK/27);
- Existing Second Floor Plan (Drawing Ref: CAD/WB/AK/28);
- Existing Third Floor Plan (Drawing Ref: CAD/WB/AK/29).

6.3 In addition, individual plans of each self-contained unit are attached as well. The layout of the application site as 25 self-contained units as illustrated on the existing plans, can be verified on site during an officer’s site visit.

### Evidence Relating to the History of the Use

6.4 Attached at **Appendix A** is a statutory declaration of Mr Iraj Elghanian of 30 Annandale Avenue, London, N3 3PJ dated 8 November 2017. Mr Elghanian is a Director of Goldenbridge Holdings Limited who was the registered proprietor of 24 Wedderburn Road, London, NW3 5QG at the time of the signing of the Declaration on 8 November 2017, and who subsequently sold the site to Akelius. The Declaration confirms that the application site had been converted entirely into self-contained units by January 2013. The property has been used as 25 self-contained flats continuously and without interruption since January 2013 up to the date of the Declaration ie, namely, 8 November 2017 (save that rooms 9, 15 and 19 were stripped to shell condition on or around March 2017). The Declaration confirms that the London Borough of Camden Council Tax register refers to 25 residential units being liable for paying tax for in excess of four years and confirms the number of Council Tax listings as of 8 November 2017.

- 6.5 Attached at **Appendix B** is a Statutory Declaration of Mr Paul Benveniste of 22 Garrick Avenue, London NW11 9ES dated 4 November 2017. Mr Benveniste worked on behalf of Goldenbridge Holdings Limited, having first taken instruction during 1987. As stated above, Goldenbridge Holdings Limited were the former owners of 24 Wedderburn Road. The Statutory Declaration of Mr Benveniste confirms the application site was converted entirely into self-contained flats by January 2013 and has been used as such continuously and without interruption since January 2013.
- 6.6 Attached at **Appendix C** is a Statutory Declaration of Mr Iven Titelbaum dated 16 November 2018 which confirms that Mr Titelbaum currently lives at Flat 23 Wedderburn Road and confirms he has lived in the property for some 32 years having first moved in in 1986. The Declaration confirms the property has comprised 25 self-contained units for a period of ten years, which remains the current arrangement.

### **Summary**

- 6.7 The layout of 24 Wedderburn Road is as shown on the submitted plans and is laid out as 25 self-contained units. This can be verified during an Officer's site visit. The evidence submitted illustrates that the property has been in residential use in this arrangement for at least four years from the date of the application and, indeed, for much longer. No alternative uses have occurred on site during this time.
- 6.8 As set out within the preceding Section, a Local Authority should not dispute an Applicant's evidence unless it has good reason to do so. There is nothing to suggest that the layout of the application site has not, for the last four years, been as shown on the submitted documents.
- 6.9 As such, it is considered that the submitted evidence confirms "*on the balance of probability*" that the lawful use of 24 Wedderburn Road, London, NW3 5QG is as 25 self-contained residential units.

## SECTION 7: CONCLUSIONS

- 7.1 This Statement has been prepared on behalf of Akelius UK Twelve Limited by JMS Planning & Development Ltd in respect of an application for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) in order to confirm the existing lawful use of 24 Wedderburn Road, London, NW3 5QG as 25 self-contained units.
- 7.2 Akelius UK Twelve Limited forms part of Akelius Residential Limited which is a major international owner and manager of residential rented and HMO accommodation. Akelius is now a significant owner of such accommodation within London currently owning and managing some 115 buildings and more than 2,200 units throughout London.
- 7.3 As set out in the preceding Section, a Local Authority should not dispute an Applicant's evidence unless it has good reason to do so and, as such, there is nothing to suggest that the layout of the site has not, for the last four years, been as shown on the submitted document.
- 7.4 As such, it is considered that the submitted evidence confirms "*on the balance of probability*" that the lawful use of 24 Wedderburn Road, London, NW3 5QG is as 25 self-contained units. Accordingly, it is respectfully requested that the requested CLEUD be issued to this effect.