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**Via Planning Portal only**

21<sup>st</sup> April 2021

Dear Sir/Madam,

**Certificate of Lawfulness of proposed use – Proposed use of the basement and ground floors at 60 Charlotte Street, London, W1T 2NU for commercial, business and service use (Class E).**

Please accept this covering letter as an accompaniment to a lawful development certificate application to establish whether the proposed use of the basement and ground floors at 60 Charlotte Street for commercial, business and service use (Class E) is lawful. The application is submitted under Section 192 of the Town and Country Planning Act 1990 (as amended).

**Existing use**

The application relates to a unit which forms part of the existing basement and ground floor at 60 Charlotte Street, the existing use of which is classified as a restaurant (Use Class E). The unit was, until very recently, occupied by Gaucho Restaurant.

Planning permission (**2007/1531/P**) was granted on 8<sup>th</sup> June 2007 for the change of use of part of the basement to an alternative use as either offices or restaurant. This permission also included part of the ground floor being converted into a restaurant entrance to be able to access the basement. An amendment (**2007/5661/P**) to that planning permission was later granted on 5<sup>th</sup> February 2008 relating to the change of use of a further part of the ground floor behind the restaurant reception area to provide either additional restaurant space (Class A3) or office accommodation (B1) and minor works to the Tottenham Street ground floor elevation.

Most recently, planning permission (**2019/3512/P**) was granted on 17 December 2019 for an amendment to planning permission (**2007/1531/P**) to allow the serving of hot/cold food and beverages at ground floor level and to reduce the hours of operation.

Based on the planning history of the site, the premises have therefore been in long term use for restaurant purposes and the existing lawful use of the site is therefore restaurant (Use Class E).

### Proposed use

Whilst an end user is currently unidentified, this certificate application seeks confirmation that the proposed use of the basement and ground floors of this part of 60 Charlotte Street for commercial, business and service use (Class E) is lawful.

### Lawfulness of proposed use

Section 55 of the Town and Country Planning Act 1990 as amended (the Act) defines the meaning of 'development' as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Section 55(2) does however set out the operations or uses of land which shall not be taken for the purposes of the Act to involve development of the land. Section 55(2)(f) states that development shall not include the following – *'in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provision of the order, of any part of the buildings or the other land, for any other purposes of the same class'*.

The existing use of the basement and ground floors as a restaurant is within Use Class E and the proposed commercial, business and service use is also within Use Class E. Consequently, the proposal results in no material change of use of the building or land. The proposal therefore does not fall within the meaning of development and as such planning permission is not required.

### Summary and conclusion

The proposed use of the basement and ground floor at 60 Charlotte Street from its existing restaurant use (Use Class E) for commercial, business and service use (Class E) does not constitute a material change of use of the building or land. The proposal therefore does not fall within the meaning of development.

A Lawful Development Certificate is therefore requested to confirm that the proposed use is lawful and would not require planning permission.

I trust the commentary above is clear but please do not hesitate to contact me if you have any queries or if I can offer any further points of clarification.

Yours faithfully

**Stuart Minty**  
**Director**  
**SM Planning**