

---

**SUPPORTING STATEMENT  
CLASS C3 RESIDENTIAL USE**

**1 AND 2 NEW CENTURY PLACE,  
EAST STREET, READING, RG1 4ET**

**A. Introduction**

1. DP9 Limited ("DP9") have been instructed by Studios Reading Limited ("Studios") to prepare an application to Reading Borough Council ("Council") to apply for a certificate of lawful existing use or development ("CLEUD") for 1 and 2 New Century Place, East Street, Reading RG1 4ET (the "Property").
2. This application is made on the basis that the conversion of units at the Property from offices to self-contained residential units falls within Class C3 of the Use Classes Order, and that this is fully authorised under the Prior Approvals granted for the Property.
3. This note provides factual background in respect of the relevant permissions and works carried out to the Properties in Section B together with information on the occupancy of the apartments. Section C provides the legal background and guidance on the definition of Class C3 dwelling houses. Section D provides analysis of the Properties as constructed against this land use guidance concluding that the Property is in Class C3 use and the Lawful Development Certificate should be granted. Section E provides a statement of interest in the land.

**B. Factual Background**

4. The Property includes two former office buildings, 1 and 2 New Century Place, East Street, Reading.
5. New Century Place building 1 was granted prior approval for the permitted change of use from Class B1 offices to C3 dwellinghouses to comprise 72 self-contained studio apartments on 12 February 2018 (Ref. 172272) (Appendix 1).
6. On 31 August 2018 planning permission was granted for New Century Place building 1 for the replacement of various windows on all elevations, various trickle vents on north south and west elevations, new balustrades on north and west elevations and associated external works without complying with condition 2 (approved plans) of planning permission ref. 171822 to facilitate relocation of trickle vents, replacement windows and additional aluminium curtain walling (Ref. 181050) (Appendix 2).
7. New Century Place building 2 was granted prior approval for the permitted change of use from Class B1 offices to C3 dwellinghouses to comprise 63 self-contained studio apartments on 12 February 2018 (Ref. 172271) (Appendix 3).
8. On 31 August 2018 planning permission was granted for the replacement of various windows on all elevations, various trickle vents on north south and west elevations, new balustrades on

north and west elevations and associated external works without complying with condition 2 (approved plans) of planning permission ref. 172254 to facilitate relocation of trickle vents, replacement windows and additional aluminium curtain walling (Ref. 181051) (Appendix 4).

9. Both buildings have been fitted out and converted into a total of 135 self-contained residential units with ancillary facilities including a club lounge and gym, which are only accessible by tenants.
10. The buildings were completed, and partial occupation commenced with a number of units being let under Assured Shorthold Tenancy (AST) Agreements on 9 November 2018.
11. At Appendix 5, we provide an overlay trace of each approved floorplan showing the completed conversion works in accordance with the consented drawings (note: approved layout in red and the as constructed layout in black). There are de minimis internal alterations to wall positions principally in the main entrance lobbies.
12. Each self-contained apartment has exclusive access to its own living space, kitchen area with cooking facilities, shower and WC facilities, sleeping facilities, lockable door, refrigerator and intercom connection to the front door of the building. The apartments have some built in furniture. Each apartment has its own locked post box in the ground floor reception area. Each unit has an individual EPC certificate. Each unit is individually metered for utilities.
13. There are some communal facilities provided consistent with the prior approvals and planning permissions, comprising approximately 7% of the overall area including a laundry room, lounge and a private dining room, a cycle store and a private residents gym.
14. The tenants of the apartments, each of whom is entitled to quiet enjoyment of their apartment under their AST, are a mix of various tenant demographics including both non-student tenants and student tenants (part-time or full-time). All tenants occupy their apartments under an Assured Shorthold Tenancy Agreement (AST). A sample AST Agreement is provided as Appendix 6.
15. A schedule of tenancies is provided, for information, as Appendix 7. This includes a column identifying the tenant's occupation which is provided to the best of the applicant's knowledge. We note, however, that the nature of a tenant's demographic or occupation is irrelevant as a matter of law. Class C3 does not preclude or require certain demographics or types of tenant.
16. We note that the Prior Approval decisions granted do not preclude occupation by students or impose any condition on the nature of the occupation.
17. Gas, electricity, water and internet services are provided as part of the tenancy agreement by the landlord to a fair usage policy beyond which excess charges may apply.
18. All 135 apartments are registered for Council tax. Individual tenants are responsible for paying Council tax. During periods of vacancy the landlord is responsible for the Council tax. 1 and 2 New Century Place do not have a current listing at the Valuation Office Rating List.
19. At Appendix 8, we provide a copy of the Building Regulations Fire Certificate confirming L3 residential strategy and Smoke Ventilation Systems Certificates.

20. At Appendix 9, we attach a copy of the Residents Handbook which provides information on the property, advice services and local amenities. There are no pre-requisites to a tenant being able to rent an apartment other than to meet the prevailing financial criteria and adhere to the lease and tenant's handbook; the landlord reserves the right to reject a proposed tenant at its sole discretion.

### C. Legal Background

21. Under Section 191 of the Town and Country Planning Act 1990 a person may make an application for a Certificate of Lawful Existing Use or Development which shall be granted if information is provided to the local planning authority satisfying them of the lawfulness at the time of the application.
22. The Town and Country Planning (Use Classes) Order 1987 (as amended) describes Class C3 dwellinghouses 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)."*

23. The term dwellinghouse is not expressly defined in the Use Classes Order, nor is it limited to exclude flats. It is now commonly accepted in planning practice that a residential flat is a Class C3 use and we do not consider this to be a matter of potential dispute.
24. The now withdrawn Circular 03/2005 Changes of Use of Buildings and Land - The Town & Country Planning (Use Classes) Order 1987, provided guidance in relation to Class C3 Dwelling houses. Paragraph 66 advises that *"...the key element in the use of a dwelling house for non-family purposes is the concept of a single household."*
25. Paragraph 70 of Circular 03/2005 explains that *"The common feature of all premises which can generally be described as dwelling houses is that they are buildings that ordinarily afford the facilities required for day to day private domestic existence."* This reflects the conclusions in the Gravesham judgement (*Gravesham Borough Council v Secretary of State for the Environment (1984) 47 P&CR 143*)
26. Paragraph 71 provides three criteria for defining premises which can properly be regarded as being used as a single dwelling house where they are:
- *"a single, self-contained unit of occupation which can be regarded as being a separate*

*‘planning unit,’ distinct from any other part of the building containing them;*

- *designed, or adapted, for residential purposes containing the normal facilities for cooking, eating and sleeping associated with use as a dwelling house;*
- *used as a dwelling, whether permanently or temporarily, by a single person, a family, or more than one person living together like a family, as a single household.”*

27. Paragraph 72 advises that:

*“This interpretation would exclude such uses as bed-sitting room accommodation if the occupants share some communal facilities within a building, such as a bathroom or lavatory. Here, the ‘planning unit’ is likely to be the whole building in use for the purposes of multiple residential occupation, rather than each individual unit of accommodation.”*

28. Planning merits<sup>1</sup> are not relevant to the determination of this application and there can be no consideration of planning policy. The application must be decided on the facts of this case and in accordance with planning law. The standard of proof is to assess the application on the balance of probabilities. The factual circumstances set out below and the weight of the law referred to below demonstrate that, on the balance of probabilities, there is no reason to refuse this application.

#### **D. Analysis**

29. The development has been carried out in accordance with the relevant consents.

30. The Properties comprises 135 self-contained residential flats.

31. Each flat is a separate planning unit.

32. Each unit comprises the same type of accommodation with the same degree of self-containment. Each unit has its own living space, kitchen, shower facilities and sleeping facilities, with its own lockable door and (audio, not access) intercom connection to the front door of the block so that visitors can notify occupants of their arrival. Each unit has its own individual post box. Each unit has an individual EPC certificate. Each unit is individually metered for utilities.

33. Each apartment affords each Tenant the facilities required for day-to-day private domestic existence. Each occupant can, in his or her own apartment, cook, eat, wash, sleep, entertain, relax and so on without reliance upon anyone else or any facility outside their apartment.

34. The shared amenity areas within each block include a club lounge and gym which constitute less than 7% of the floorspace of the Property. These facilities are typically found in modern apartment blocks which similarly contain individual and shared facilities.

35. The inclusion of communal facilities if ordinarily incidental to the primary use does not amount to a material change of use of the definable character of the land and is ancillary. The prior approval decisions, authorising change of use to 135 self-contained residential flats in C3 use,

<sup>1</sup> NPPG – Paragraph 009 on Lawful Development Certificates ID: 17c-009-20140306

expressly contemplated and approved the 7% shared amenity areas.

36. Appeal decisions set the precedent that flats with their own lockable front door should be classified as Class C3 and support this application: see, for example, the Bristol decision at Appendix 10.
37. Each flat is identified separately for residential Council Tax. Since the change of use the buildings have been removed from the Valuation Office Rating List. Qualifying occupants are entitled to be registered on the electoral register by reference to their individual address.
38. All tenants have entered into an AST pursuant to the Housing Act 1988. Occupants pay a reservation to rent to secure their apartment, which is offset against the first rental payment. There is also a deposit to pay at the time of the first rental payment. These are managed in accordance with the tenancy deposit protection legislation. The rents are market rents. The Council does not pay any of the rents.
39. Staff do not live on site.
40. The fire strategy is consistent with Class C3 use.
41. The Residents Handbook applies to all tenants.
42. The prior approvals and planning permissions do not include conditions precluding any occupier type including student occupiers, and student occupation of apartments is not inimical to Class C3 use.
43. Based on the evidence the self-contained studio apartments fall within Class C3 Dwelling houses and it would be unreasonable of the Council to conclude otherwise.

#### **E. Statement of Interest in Land**

44. The Applicant is the owner of the Property. Others with a technical interest, such as individual tenants, have not been notified as notification by the applicant is not required by the Council for consideration of the application. The applicant can provide the Council with a list of these other interests upon request.

#### **List of Appendices**

1. Prior Approval decision dated 12 February 2018 Ref. 172272
2. Planning permission dated 31 August 2018 Ref. 181050
3. Prior Approval decision dated 12 February 2018 Ref. 172271
4. Planning permission dated 31 August 2018 Ref. 181051
5. Overlay trace plans comparing as built development to planning permissions
6. Sample Assured Shorthold Tenancy Agreement
7. Tenancy Schedule
8. Building Regulations Fire Certificate and Smoke Ventilation Certificates
9. Tenants Handbook
10. Bristol precedent: Planning Statement, officer report and decision notice