

Norfolk House, Temple Street, Redcliff, Bristol BS1

Stamford Goldhawk LLP

**Planning Statement to support an Application for a Lawful
Development Certificate (CLEUD)**

A. Introduction

1. Asserson Law Offices have been instructed by Stamford Goldhawk LLP ("**Stamford**") to prepare an application to Bristol City Council ("**Council**") to apply for a certificate of lawful existing use or development (CLEUD) for Norfolk House, Temple Street, Redcliff, Bristol BS1 (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 current prior approval for the Property.

B. Factual Background

3. The Property is a four-storey 1970s building registered under land registry title number BL33983 and is shown on the site location plan outlined in red (Appendix 1). Stamford is the registered owner.
4. On 27 January 2014, an application (14/00366/COU) was submitted to the Council for "*Prior approval for the change of use of all floors from office space within class B1(a) to residential accommodation falling within class C3 (dwellings)*" under the then Class J of the General Permitted Development Order 1995 (application documents at Appendix 2). This application was accompanied by basic floorplans of the office space within the Property which was to be converted to residential. Prior approval was given by the Council on 21 March 2014.
5. Subsequently, two further planning application were submitted and granted. A planning application (14/02736/F) was submitted for the approval of external alterations, including replacement windows, amendments to the main entrance, a refuse/recycling store, small infill extension and an external decking area. This application was accompanied by the proposed ground floor layout plan (Appendix 3) which showed an entrance foyer, with building management office, an area identified as 'ancillary space for residents' with areas marked as 'accommodation' to the wings of the building. The application was granted subject to conditions on 3 August 2014.
6. A second application 15/00660/NMA was submitted for a non-material amendment to the approved plans covering amendments to the landscaping proposals. This was granted permission on 2 March 2015.
7. Stamford has fitted out the Property to convert the offices into 153 self-contained residential units targeted to students, recent graduates and young professionals, and communal facilities including a lounge, gym and cinema room for residents' use.
8. On 28 August 2015, partial occupation of the Property commenced, with a number of units being occupied by students under Assured Shorthold Tenancy agreements (in

the form attached as appendix 4). Occupation has continued since that date, with 90% occupation in September 2015.

9. In view of the Council's initial concerns that the proposed use was a sui generis use not falling within a C3 use, a view which has since changed, this application is submitted to ensure that there will be no doubt to future owners/occupiers that the existing use falls within use class C3, and accordingly no further planning permission is required.

C. Legal Background

10. 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.
11. An application for a certificate for a use which has the benefit of a planning permission or permitted development rights should be granted as such use will inevitably be lawful.
12. The Use Classes Order 1987 describes Class C3 as:

C3 Dwellinghouses- this class is formed of 3 parts:

C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.

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.

13. Therefore, if it can be shown that the converted units will be used as dwellinghouses, the local planning authority must grant a certificate of lawful existing use with regard to the Property, on the basis that as the use falls within a granted prior approval and is therefore the lawful use of the units.

D. Analysis

14. It is our contention that the use of the units by, but not restricted to, students and young professionals falls entirely within Class C3 of the Order, and should not be considered a sui generis use.

The Property

15. The development comprises 153 self-contained residential studio units. Plans are attached as Appendix 5.
16. Each of the units comprises the same type of accommodation, with the same degree of self-containment and communal living. Each unit has its own living space, kitchenette, shower facilities and sleeping facilities, with its own lockable door and ability to grant access to the building through a separate intercom system.
17. The communal areas, including the lounge, gym, cinema room and quiet rooms on the ground floor, constitute less than 10% of the floorspace of the Property. These facilities which are typically found in high-end apartment blocks, which similarly contain individual units and shared facilities.

Legal framework

18. The term “dwellinghouse” is not defined in the legislation, but has been interpreted by the Courts (notably in *Gravesham Borough Council v Secretary of State for the Environment* (1984) 47 P&CR 143 and *Scurlock v Secretary of State for Wales and Another* [1977] 33 P. & C.R. 2002) as a building, or part thereof, which provides all necessary facilities for day to day private domestic existence. Further, the Courts have held that determining whether a unit is a “dwellinghouse” is a matter of fact and degree.
19. The term “dwellinghouse” was considered in a recent appeal decision (APP/F5540/A/14/2228951, attached as Appendix 6), in which the Inspector found in respect of units ranging between 18 and 22 sqm that there is “no stipulation or restriction in Class C3 of the UCO in terms of size”.
20. It is settled law (as was stated in the now superseded Circular 08/2010), that the required facilities comprise “the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse”, i.e. cooking, eating and sleeping facilities.

21. There is no case law, statute or guidance which stipulates that the class of a dwelling must be based on any other criteria, such as its design, size or type of occupier. As such, these criteria have no bearing on the planning classification of a unit.
22. Furthermore, in cases where classification is unclear, a number of Planning Inspectors have adopted the view that a unit which has its own lockable front door should be classified as a Class C3 unit (in particular, APP/W1850/A/06/2022861).
23. With regards to communal facilities, case law has set out (most notably by the Court of Appeal in *Harrods Ltd v Secretary of State for the Environment, Transport and the Regions* [2002] JPL 1258) that a use will be ancillary if it is ordinarily incidental to the primary use, and does not amount to a material change of the definable character of the land.

Conclusion

24. The classification of the units within the Property as residential dwellinghouses is a matter of fact and degree, and is not dependent on the type of occupier. The fact that the Property is occupied predominantly by students does not impact on the type of occupation, and therefore the use class.
25. Each unit operates as a single, self-contained unit, and contains all of the appropriate facilities for this use.
26. The communal facilities do not materially change the character of the Property, and therefore are ancillary to the primary use of the Property.
27. The correct classification of the units within the Property is therefore as residential dwellinghouses within Class C3 of the Order.

E. Conclusion

28. It is considered that based on the evidence provided, it has been proved that the Property falls within Class C3 of the Order. It is therefore considered that a Lawful Development Certificate should be granted for the use of the Property.