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Victoria Point, Manchester

Application for Certificate of Lawful Existing Use
Supporting Planning Statement

Introduction

1. This Planning Statement is submitted in support of an application for a Certificate of Lawful Existing Use for Victoria Point, Hathersage Road, Manchester (hereinafter referred to as "the subject property"). The application is submitted on behalf of Empiric (Manchester Victoria Point) Limited (hereinafter referred to as "the Applicant". The Planning Statement will outline the planning history of the subject property and provide evidence of its occupation following completion in 2009.
2. The Certificate is sought for the use of the subject property as purpose-built student accommodation (PBSA) and this use has been continuous since the first occupation of the building in September 2009. Evidence will be provided in this Planning Statement to demonstrate that this has been the case.
3. The Applicant acquired the subject property from MCR in 2015. MCR developed the subject property and managed it as PBSA, under the company name MCR Students, until the Applicant acquired the property in 2015.

Planning History

4. Outline planning permission (ref. 077297/00/2005/N2) was granted on 1 December 2006 for the following description of development:

> "*Outline Planning Permission (siting and means of access) erection of six buildings (3/4/5/6 storeys) comprising 194 residential units. Provision of 211 car parking spaces at ground and sub-basement level. Associated landscaping. Amendments to existing access from Hathersage Road."*

5. The outline planning permission was granted subject to 25 conditions. Condition 21 states that a maximum of 194 apartments is approved, and a minimum of 194 car parking spaces is to be provided.
6. The outline planning permission was granted following the completion of a Section 106 Agreement, again dated 1 December 2006. This required payments to Manchester City Council for the purposes of improving, restoring, repairing and maintaining the adjoining Victoria Baths prior to the commencement of development, and the retention of the use of 17 car parking spaces within the site for use by the Council or the occupants of the proposed development with the prior approval of the Council.
7. There are no conditions or Section 106 clauses restricting occupation of the residential units.
8. The outline planning permission was followed, in March 2007, by a reserved matters application for the development (ref. 082442/MO/2007/N2). The description of development was:

"*Reserved Matters approval for the scale, appearance and landscaping in relation to the erection of six no. four, five and six storey blocks to create 194 new residential units with basement car parking and landscaping (approved in outline under application number 077297/00/2005/N2).*

9. The reserved matters application was approved on 3 September 2007.

Legislative Position

10. The development was completed and occupied in September 2009. At that time, the occupation of the flats was authorised under Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). On 6 April 2010, amendments to the Use Classes Order split the existing class 3 (dwellinghouses) use class into two separate use classes: class C3 (dwellinghouses) and class C4 (houses in multiple occupation, broadly referring to residential use by three to six unrelated occupants who share basic amenities. On 1 October 2010, an amendment to the General Permitted Development Order (SI2010/2134) gave permitted development rights for changes of use from the new classes C3 to C4, and vice versa.

11. The legislative changes are succinctly summarised in Communities and Local Government Circular 08/2010 (attached as Document 1 to this Statement) and paragraph 14 states:

> "*The April and October changes to legislation mean that, from 1 October 2010, a change of use from a dwelling house (class C3) to a house in multiple occupation (class C4) and from a house of multiple occupation to a dwelling house is possible under permitted development rights and planning applications are not needed.*"

12. The Circular goes on to confirm that local authorities may use existing powers under Article 4 Directions to remove these permitted development rights. On 8 October 2010 Manchester City Council (MCC) brought into force an Article 4 Direction removing the permitted development right introduced by the General Permitted Development Order on 1 October 2010. As a result, it is accepted that the use of the residential units at Victoria Point as PBSA would have required planning permission if the use had commenced after 8 October 2010. This Statement, and accompany documents, demonstrates that the PBSA use commenced in September 2009 and is, therefore, lawful.

Evidence

13. The evidence provided by the Applicant to demonstrate the use of the subject property as PBSA is as follows:

- a detailed lists of tenants occupying the residential units from academic year 2009/10 through to academic year 2014/15 (Document 2);
- a sample list of application forms prepared by tenants for the 2010/11 year, which commenced in September 2010 (Document 3);

- a signed assured shorthold tenancy agreement for the subject property for the academic year 2009/10 (Document 4).

14. Document 2 includes the full list of tenants occupying the six residential blocks, the majority of which are from September 2009 for the academic year ending 3 July 2010, and with a small number commencing in early 2010. Document 2 includes the full information across the following five academic years up to 2015.

15. The tenant lists demonstrate that the individual flats were occupied on the basis of the original Class C3 dwellinghouse definition from September 2009 onwards and there has been no break in this use since commencement in September 2009.

16. Document 3 includes sample application lists, which are provided to supplement the detailed tenancy schedules as included in Document 2.

17. Document 4 comprises a signed assured shorthold tenancy agreement between a tenant of the subject property for the academic year 2009/10 and the operator at that time, MCR Students. The start date for the agreement is 5 September 2009 (page 1), and the tenant is confirmed as a student, with a student registration number quoted (page 1). The subject property is clearly stated as the property to which the tenancy agreement relates (page 2). The definition of the terms 'Hall' or 'Building' states, at paragraph 1.1 of the Terms of Occupancy (from page 3) is confirmed as the subject property.

Conclusion

18. This Planning Statement, accompanying the application for a Certificate of Lawful Existing Use for the subject property, demonstrates that the subject property has been in use as PBSA since September 2009. As a consequence, it predates the 2010 changes in the use classes order and permitted development rights, and also predates the MCC Article 4 direction of October 2010.

19. On this basis, the PBSA use was existing in September 2009 and has been in this use uninterrupted since that date. As a result, the Applicant is entitled to a Certificate of Lawful Existing Use for the subject property as PBSA.