



**21 St George's Square, London  
Town Planning Statement**

On behalf of: Markus Gloël

January 2024

U0020601/GAO/EGI

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# 1 Introduction

1.1 This Planning Statement has been prepared by Gerald Eve LLP on behalf of Markus Gloël (the “Applicant”) to support an application for a Certificate of Lawfulness of Proposed Use or Development (‘CLOPUD’) in respect of works at 21 St George’s Square, London SW1V 2HX (‘the Site’) in line with Section 192 of the Town and Country Planning Act (1990) (as amended) (‘the 1990 Act’).

1.2 The proposed development is described in greater detail in Section 3 of this Statement but in summary the following is sought:

**“Lawful Development Certificate for proposed works in connection with the construction of a mansard roof extension as approved under planning permission ref. 08/09259/FULL and listed building consent ref. 08/09260/LBC, both dated 19 January 2009.”**

1.3 This Statement sets out the background to the proposals, the proposed works and summarises the evidence of lawfulness in order for a CLOPUD to be issued by Westminster City Council (‘the City Council’).

1.4 This document should be read alongside the other information submitted with this application, namely:

- a) Proposed Drawings of the Mansard Extension;
- b) Planning History Summary;
- c) 2009 Approvals Decision Notices;
- d) 2009 Application Approved Documents List;
- e) 2009 Permission Approved Documents;
- f) Estate Agent Floorplans at time of Applicant’s Purchase of Property (August 2022);
- g) Statutory Declaration of Anne-Marie Louise Williams;
- h) Fourth Floor Existing and Proposed Plans;
- i) Estate Agent Floorplans (March 2011); and
- j) Legal Note, Prepared by Town Legal.

## 2 The Site

- 2.1 The Site comprises a six-storey building (basement and ground floor plus four storeys) located in the Pimlico Neighbourhood Area, within the City of Westminster. The Site is currently in use as a single-family dwelling.
- 2.2 It sits within a terrace of buildings at 3-25 St George's Square and is directly opposite the triangular element of St George's Square. At roof level, the roof form comprises a 'butterfly' roof with an inverted 'V' shape with a small area of decking where the two sides of the roof meet. One side of the roof profile also incorporates solar PV panels.
- 2.3 The Site is within a historic context. It is Grade II listed (along with the other properties within the terrace), within the Pimlico Conservation Area and is in proximity to a number of designated and undesignated heritage assets including St George's Square (Grade II), 3-25 St George's Square (all Grade II listed), St Saviour's Church (Grade II listed, and identified as a landmark building in the Pimlico Conservation Area Audit) and the St Saviour's War Memorial (Grade II listed).
- 2.4 The Site also directly adjoins with no. 23 St George's Square, which already includes the presence of a mansard roof extension, therefore making the property seven storeys (basement and ground plus five storeys).
- 2.5 The Site is subject to the following planning designations:
  - a. Within the Central Activities Zone;
  - b. Within an Archaeological Priority Area (Tier III) (Pimlico);
  - c. Within Flood Zone 3;
  - d. Within the Pimlico Conservation Area; and
  - e. Within a Nature Deficiency Area.
- 2.6 The surrounding area is predominately residential in nature however there are some commercial units close by within the designated Pimlico Local Centres on either side of Lupus Street.

### 3 Certificate of Lawfulness

3.1 This CLOPUD application seeks to confirm that the following works at the Site would be lawful:

**“Installation of a new slate mansard roof extension with new timber dormer sash windows to front and rear elevations.”**

3.2 For reference, the proposed works outlined above are shown on plan refs. adg0210A, adg0300A and adg0310A (as included at Appendix A) and were approved under planning permission ref. 08/09259/FULL and listed building consent ref. 08/09260/LBC (herein referred to as ‘the 2009 Approvals’), both dated 19 January 2009.

3.3 This CLOPUD application seeks to set out the following:

- a) The installation of a roof top mansard at the Site was approved under the 2009 Approvals by virtue of the works shown on the approved plans listed on the decision notices and referenced in the approved documents;
- b) The 2009 Approvals were lawfully implemented prior to their expiration date i.e. by 19 January 2012; and
- c) It would therefore be lawful for the Applicant to continue to carry out the works as approved under the 2009 Approvals and install a new slate mansard roof extension with new timber dormer sash windows to the front and rear elevations.

3.4 The statutory framework concerning “lawfulness” for lawful development certificates for proposed use or development is set out in section 192 of the 1990 Act.

3.5 The Local Planning Authority (“LPA”) needs to consider whether, on the basis of the facts of the case and relevant law, the matters specified in the application are lawful. Planning merits are not relevant to the consideration of this application, and the LPA has a duty to issue a certificate if it has been provided with information and evidence satisfying it of the lawfulness of the proposed use or operations.

3.6 In dealing with this CLOPUD application, the burden of proof rests with the Applicant, and the standard of proof is on the ‘balance of probability’. The NPPG (para 006, 2014) states that

for CLOPUD applications, an application needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. Paragraph 009 states that in determining a CLOPUD application, the LPA needs to ask “if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?”.

## 4 Planning History – ‘The 2009 Approvals’

- 4.1 A full schedule of the relevant planning history relating to the use of the building has been prepared using the information publicly available via the City Council’s online planning records. This schedule is enclosed at Appendix B.

### **The 2009 Approvals**

- 4.2 There are two applications of primary relevance to this CLOPUD application – planning permission ref. 08/09259/FULL (‘the 2009 Permission’) and listed building consent ref. 08/09260/LBC (‘the 2009 LBC’), both dated 19 January 2009 (together referred to as ‘the 2009 Approvals’). The decision notices for the 2009 Approvals have been included at Appendix C of this Planning Statement.

### Descriptions of Development and Relevant Conditions

- 4.3 The description of development set out on the 2009 Permission is as follows:

**“Use as a single family dwelling and alterations to rear fenestration.”**

- 4.4 The description of development set out on the 2009 LBC is as follows:

**“Use as a single family dwelling and alterations to rear fenestration. Internal alterations to include removal and installation of internal partitions and installation of lift.”**

- 4.5 As part of these applications, the erection of a mansard roof extension was also proposed. Despite this, no reference is made to this element of the proposal within either description of development.

- 4.6 Both the 2009 Permission and the 2009 LBC were granted on a conditional basis. The 2009 Permission includes the following text:

**“The City Council has considered your application and permits the development referred to below subject to the conditions set out and in accordance with the plans submitted.**

**Unless any other period is stated in the Schedule below or by any conditions attached; this consent, by virtue of Section 91(1) of the 1990 Act (as amended), is granted subject to the condition that the works to which it relates must be commenced within 3 years of the date of this consent.”**

4.7 The 2009 LBC includes the following text:

**“The City Council has considered your application and grants consent for the works referred to below subject to the conditions set out and in accordance with the plans submitted.**

**Unless any other period is stated in the Schedule below or by any conditions attached; this consent, by virtue of Section 18(1) of the 1990 Act (as amended), is granted subject to the condition that the works to which it relates must be commenced within 3 years of the date of this consent.”**

4.8 In addition, the 2009 LBC includes condition no. 3 which states:

**“The works approved are only those shown on the drawings listed on this decision letter.”**

4.9 In order not to expire, the 2009 Approvals had to be lawfully implemented by **19 January 2012**. There were no pre-commencement conditions attached to the 2009 Approvals which had to be discharged prior to works commencing on Site / prior to the permitted use commencing.



## 5 The Mansard Roof Extension and Other Approved Works

### Mansard Roof Extension

- 5.1 Notwithstanding the fact that a mansard was not referred to in the descriptions of development for the 2009 Approvals, a mansard extension was shown and described on some of the approved plans and documents listed on the decision notices. There were also some plans/documents which were shown online on the planning application register which did show/describe the presence of a mansard, but which were not listed on the decision notices. Other plans were noted on the decision notice which do not indicate a mansard roof, although these plans do not purport to show the roof area, nor do they appear to undermine the proposal for a mansard roof extension. Plan Adg0112C, which shows the basement, third fourth and roof levels is unclear as to whether a mansard roof is included.
- 5.2 The position on these plans and documents is set out in Table 1 below, with those documents showing/describing a mansard roof extension and listed on the decision notice highlighted in green.

Document and reference	Plan/document listed as an approved document on decision notices?	Plan/document shows/describes presence of a mansard?
Planning Statement dated 4.11.2008	Yes	No
<b>DAS dated 29.11.07<sup>1</sup></b>	<b>Yes</b>	<b>Yes</b>
Photographs 690-P1 to 21 inclusive	Yes	No
ADG01 (Site Location Plan)	Yes	No
Adg0101A (Basement, Ground and First Floor Plans as Existing)	Yes	No
Adg0102A (Second, Third and Fourth Floor Plans as Existing)	Yes	No
Adg0103 (Roof Plan as Existing)	Yes	No

<sup>1</sup> Noted that the DAS online is dated 29 November 2007 Rev A 08 April 2008, but we assume that nothing turns on that

Adg0111C (Basement, Ground and First Floor Plans as Proposed)	Yes	No
Adg0112C (Second, Third, Fourth Floor & Roof Plan as Proposed)	Yes	Unclear
Adg0200 (Front and Rear Elevations as Existing)	Yes	No
Adg0210A (Front and Rear Elevations with Lift as Proposed)	Yes	Yes
Adg0310A (Section B-B as Proposed)	Yes	Yes
Adg0300A (Section A-A as Proposed)	No	Yes
Adg0113A (Roof Plan As Proposed)	No	Yes

Table 1: 2009 Application Documentation

- 5.3 We have included a copy of all documents as set out in Table 1 above at Appendix D.
- 5.4 The Design and Access Statement (dated 29.11.07) states under the heading “Proposals” that **“a new mansard roof extension is proposed to match the adjacent building at 23 St George’s Square”**. There are also other references to a mansard roof extension within the document, which are set out below:
- a) **“3.4 – There are a number of mansard roof extensions of various forms within both the terrace and general street scene.”**
  - b) **“6.4 – The new mansard roof extension is set back so as not to have an undue visual impact on the front façade.”**
  - c) **“7.5 – The new mansard roof extension is set back so as not to have an undue visual impact on the rear façade.”**
- 5.5 The Design and Access Statement mentions the proposal for a mansard roof extension four times within the three-page document, including under the description of the proposals.

## Other Approved Works

5.6 Aside from the mansard, the approved plans and documents also showed a list of other works to the property, including:

External works:

- a) Alterations to the fenestration on the rear elevation;
- b) Blocking up of window at ground and second floor levels; and
- c) Replacement of missing shutters to match original at first floor level front elevation.

Internal works:

- d) Insertion of new lift shaft;
- e) Internal layout amendments, including demolition of existing walls;
- f) Internal decoration and restoration work; and
- g) Retention of basement flat as ancillary to use of whole building as a single family dwelling

Operation:

- h) Use of the property as a single-family dwelling.

5.7 We have enclosed at Appendix E screenshots of the document lists attached to the 2009 Approvals as shown on the City Council's online planning register (as accessed on 30 May 2023). No officer's report for either of the 2009 Approvals are available online. The Applicant requested to view hard copy files of the planning history, but the City Council were unable to locate the files.

## 6 Evidence – Implementation of the 2009 Approvals

- 6.1 Not all of the works approved under the 2009 approvals were implemented (including the erection of the mansard roof), however some of the approved works were implemented and these remain in situ.
- 6.2 The Applicant purchased the property from the previous owner in August 2022. We have included at Appendix F the marketing brochure and floorplans provided by the estate agents at the time of the Applicant’s purchase of the property. No structural changes have been made to the internal layouts since purchase.
- 6.3 The works that were implemented under the 2009 Approvals are discussed in turn below.

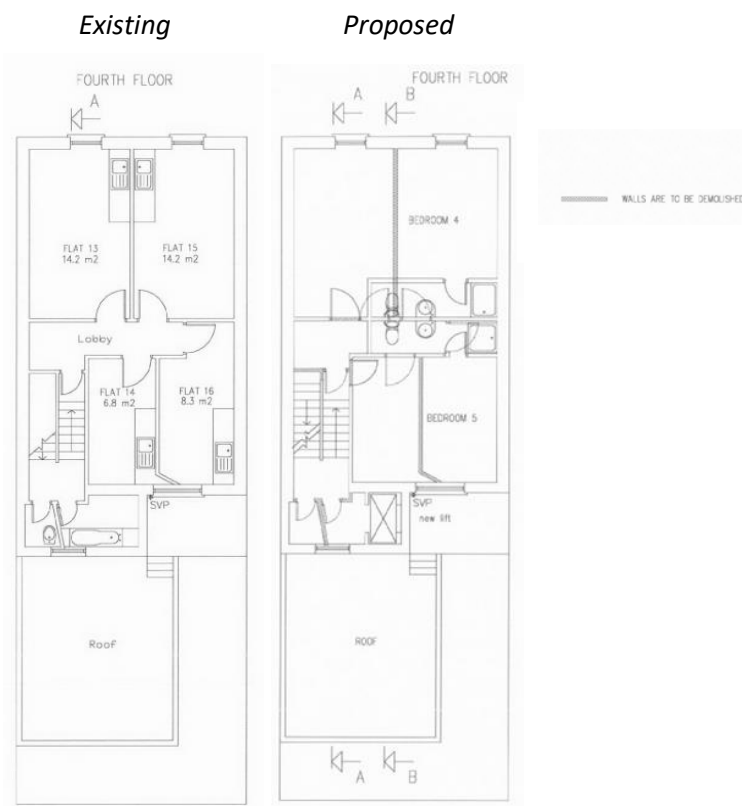
### **The 2009 Permission – 08/09259/FULL**

- 6.4 This permission, amongst other things, permitted the use of the property as a single-family dwelling.
- 6.5 The Site has been in use as a single-family home since at least March 2011, when the Site was purchased by the previous owner, Anne-Marie Louise Williams. In respect of the use of the lower ground floor space (which was previously used as a self-contained flat), Anne-Marie Williams used this space as a separate living space for family and friends, but this space was never formally rented out and remained ancillary to the single-family home.
- 6.6 A statutory declaration from Anne-Marie Louise Williams dated 1 September 2023 has been submitted with this application under Appendix G and confirms that as of November 2011, she used 21 St George’s Square as a single-family home as permitted under permission ref. 08/09259/FULL.
- 6.7 The use of the property as a single-family dwelling would classify as a ‘material operation’ under Section 56 of the Town and Country Planning Act 1990 (as amended). As the material operation was undertaken before the expiration of the planning permission (19 January 2012), it is considered that planning permission ref. 08/09259/FULL was lawfully implemented.

## The 2009 LBC – 08/09260/LBC

- 6.8 The listed building consent permitted a number of external and internal alterations to the building. This included several internal layout changes which included the demolition of some of the internal walls at fourth floor level.
- 6.9 Prior to Anne-Marie Louise William's purchase of the property in March 2011, two internal walls at fourth floor level, notably the wall in bedroom 4 that previously connected Flat 12 and 15, and the wall in bedroom 5 that previously connected Flat 14 and 16, had been demolished.
- 6.10 Included at Appendix H is both the existing fourth floor plan (ref. adg0102-A) which shows the fourth floor with these internal walls, and the proposed (and approved) fourth floor plan (ref. adg0112-C) which shows these walls proposed to be demolished. A snippet has been provided in Figure 1.

Figure 1 – Fourth Floor Existing and Proposed Plans



- 6.11 The Statutory Declaration of Anne-Marie Louise Williams which is submitted under Appendix G of this Planning Statement also confirms that the internal walls at fourth floor level had been demolished before she purchased the property in March 2011.
- 6.12 To support this further, Appendix I contains two additional floorplans from Marsh and Parsons Estate Agents and Douglas and Gordan Estate Agents, which were issued to Anne-Marie Louise Williams prior to her purchase of the property. Both of these floorplans show that the two internal walls at fourth floor level had been demolished to create two larger bedrooms.
- 6.13 This evidence therefore confirms that the demolition of these internal walls at fourth floor level occurred before the expiration date of the 2009 Approvals. The demolition of these walls would classify as a 'material operation' under Section 56 of the Town and Country Planning Act 1990 (as amended). As the material operation was undertaken before the expiration of the listed building consent (19 January 2012), it is considered that planning listed building consent ref. 08/09260/LBC was lawfully implemented.

## 7 Case for Lawfulness

7.1 In summary, the case for the granting of the CLOPUD is as follows:

- a) It is considered that the installation of a roof top mansard at the Site was approved under the 2009 Approvals by virtue of the works shown on the approved plans listed on the decision notices, as well as the references to the mansard roof in the documents which accompanied the applications, despite no reference being made within the descriptions of development.
- b) It is considered that the 2009 Approvals were lawfully implemented prior to their expiration i.e. by 19 January 2012 and thus the permission and listed building consent remain in perpetuity; and
- c) It is therefore considered that it would be lawful for the Applicant to continue to carry out the works as approved under the 2009 Approvals and install a new slate mansard roof extension with new timber dormer sash windows to front and rear elevations.

7.2 The evidence set out within and attached to this Statement supports the above conclusions.

7.3 In respect of point 7.1(a) above, a Legal Note, prepared by Town Legal, has been included at Appendix J of this Planning Statement. This considers the legal position of the submitted and approved documents in the context of the 2009 Approvals and outlines that in construing the approvals it is necessary to consider the documents which are by reference incorporated into the approvals in order to determine the scope of both approvals. This approach is clear from case law including the judgement in *UBB Waste Essex Limited v Essex County Council [2019] EWHC 1924* in which the judge stated that where “*there are documents incorporated into the permission or the conditions by reference, then a holistic view has to be taken, having regard to the relevant parts of these documents*”.

7.4 With regard to point 7.1(a) above, the Legal Note concludes that many of the submission documents that formed part of the 2009 Approvals make absolutely clear that the construction of the mansard roof forms part of the proposed development for which approvals were sought. In adopting a holistic approach to the interpretation of the approvals,

as is required under case law, Town Legal consider that construction of the mansard roof is an element of the development permitted under the approvals.

7.5 The Town Legal note also considers point 7.1(b) above. This concludes that it is clear from the content of this Planning Statement and the relevant evidence, including the statutory declaration of Anne-Marie Louise Williams, that both approvals were implemented within the 3 year period referred to in the conditions attached to both approvals.

7.6 Therefore, the Town Legal note concludes that:

- (a) Both approvals were implemented within the 3 year period for implementation;
- (b) The works to which the Application for the CLOPUD relates (“Installation of a new slate mansard roof extension with new timber dormer sash windows to front and rear elevation”) were permitted under both approvals; and
- (c) On that basis, Town Legal consider that the CLOPUD should be granted.



## 8 Summary and Conclusion

- 8.1 This Planning Statement has sought to set out the following:
- a) The installation of a roof top mansard at the Site was approved under the 2009 Approvals by virtue of the works shown on the approved plans listed on the decision notices and referenced in the approved documents;
  - b) The 2009 Approvals were lawfully implemented prior to their expiration date i.e. by 19 January 2012 and thus remain in perpetuity; and
  - c) It is therefore lawful for the Applicant to continue to carry out the works as approved under the 2009 Approvals and install a new slate mansard roof extension with new timber dormer sash windows to the front and rear elevations.
- 8.2 This Planning Statement is accompanied by several appendices that provide a comprehensive package of evidence that makes absolutely clear that the construction of the mansard roof forms part of the proposed development that was permitted under the 2009 Approvals.
- 8.3 In addition to this, the evidence provided sufficiently demonstrates that certain works and operations permitted under the 2009 Approvals were lawfully implemented before 19 January 2012. Specifically, that the property was used as a single-family dwelling from November 2011 onwards, and that the demolition of two internal walls at fourth floor level was undertaken prior to March 2011.
- 8.4 Both use as a single-family dwelling and demolition of two internal walls classify as a 'material operation' under Section 56 of the Town and Country Planning Act 1990 (as amended). As the material operation was undertaken before the expiration of the planning permission and listed building consent (19 January 2012), it is considered that planning permission ref. 08/09259/FULL and listed building consent ref. 08/09260/LBC were lawfully implemented and therefore both approvals now remain in perpetuity.
- 8.5 In conclusion, the works to which this application for the CLOPUD relates (***"Installation of a new slate mansard roof extension with new timber dormer sash windows to front and rear***

*elevation*") were permitted under both approvals and on that basis, this CLOPUD should be granted.

## 9 List of Appendices

- 9.1 Enclosed within this Planning Statement are the following appendices:
- A. Proposed Drawings of Mansard Extension
  - B. Planning History Summary
  - C. 2009 Approvals Decision Notices
  - D. 2009 PP and LBC Approved Documents List
  - E. 2009 PP and LBC Approved Documents
  - F. Estate Agent Floorplans at time of Applicant's Purchase of Property
  - G. Statutory Declaration of Anne-Marie Louise Williams
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  - I. Estate Agent Floorplans at time of Anne-Marie Louise William's Purchase of Property
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