

LDC (Proposed) Report	Application number	2023/4971/P
Officer	Expiry date	
Daren Zuk	16/01/2024	
Application Address	Authorised Officer Signature	
45 Elsworthy Road London NW3 3BS		
Conservation Area	Relevant article 4	
Elsworthy Conservation Area	None relevant	
Proposal		
Amalgamation of the existing two self-contained flats into one single dwellinghouse (Class C3).		
Recommendation:	Grant Lawful Development Certificate	

1.0 Site Description

1.1 The host property is in use as two self-contained residential units (Class C3) – one on the ground and first floors, and one on the second (loft) level.

2.0 Proposal

2.1 A Certificate of Lawfulness is sought for the proposed amalgamation of two flats into one single residential unit, resulting in a net loss of 1 residential unit from the building.

2.2 The applicant seeks to confirm that the alterations would not constitute development, and so planning permission is not required under section 55 of the Town and Country Planning Act 1990.

3.0 History

3.1 At the application site:

J8/4/18/24236 – Alterations and additions in connection with the conversion of No.45 Elsworthy Road, Hampstead, into a self-contained maisonette on the ground and first floors and a self-contained flat on the second floor. **Granted 08/05/1959**

The council tax records indicate the property has been in use as two flats for more than four years, since 01/04/1993.

3.2 Related planning history (other sites in Camden):

2021/0585/P – 46 Gayton Road, NW3 1TU. Amalgamation of 2 flats into a single dwellinghouse (Class C3). **Certificate of Lawfulness Granted 31/03/2021**

2020/5030/P – 7 Well Road, NW3 1LH. Amalgamation of 2 flats to use as a single residential unit (Use Class C3). **Certificate of Lawfulness Granted 10/11/2020**

2020/4444/P – Chesterfield House, Flat 4, 1B King Henry's Road. Amalgamation of 2 flats into a single residential unit at first floor level (Use Class C3). **Certificate of Lawfulness Granted 27/10/2020**

2020/3190/P – 38 Crediton Hill London NW6 1HR. Amalgamation from 3 flats to 2 flats and infilling ground floor window opening (Class C3). **Certificate of Lawfulness Granted 21/07/2020**

2020/3286/P – 9 Evangelist Road NW3 1UA. Amalgamation of 2 flats into a single residential unit at lower ground level (Class C3). **Certificate of Lawfulness Granted 25/06/2020**

2020/2804/P – 27 Belsize Park. Amalgamation of 2 flats into a single residential unit at lower ground level (Class C3). **Certificate of Lawfulness Granted 25/06/2020**

2020/1441/P – 13 Steele's Road London NW3 4SE. Amalgamation of a 3-bed flat on ground and first floors with a 2 bed flat on second and third floors to form one 5 bedroom self-contained residential flat (Class C3). **Certificate of Lawfulness Granted 21/04/2020**

2020/1755/P – Flat 2 and Flat 3 53 Primrose Gardens London NW3 4UL. Amalgamation of a 3-bed flat on ground and first floors with a 2 bed flat on second and third floors to form one 5 bedroom self-contained residential flat (Class C3). **Certificate of Lawfulness Granted 21/04/2020**

2020/0788/P – Upfleet Vale of Health London NW3 1AN. Amalgamation of 2 bed flat over lower ground and ground floor with 1 bed flat over first floor to create a 3-bed residential unit (Class C3). **Certificate of Lawfulness Granted 17/02/2020**

2019/3652/P – 17 and 18 Well Road London NW3 1LH. Amalgamation of two properties into a single dwelling. **Certificate of Lawfulness Granted 15/10/2019**

2019/4264/P – 21 Gascony Avenue London NW6 4NB. Amalgamation of two flats into single dwelling house (Class C3). **Certificate of Lawfulness Granted 09/09/2019**

2019/2064/P – 69 Patshull Road London NW5 2LE. Amalgamation of two flats at ground floor and first floor levels. **Certificate of Lawfulness Granted 05/06/2019**

2019/1399/P – 28 Frognal Lane London NW3 7DT. Amalgamation of two flats (lower ground floor and ground floor) into single dwelling. **Certificate of Lawfulness Granted 03/04/2019**

2019/0002/P – 23 Hampstead Hill Gardens London NW3 2PJ. Amalgamation of two flats at basement and ground floor levels. **Certificate of Lawfulness Granted 19/03/2019**

4.0 Assessment

4.1 The Town & Country Planning Act 1990, Section 55 states that “*the use as two or more separate dwelling houses of any building previously used as a single dwelling house involve a material change in the use of the building and of each part of it which is so used*”. However, the legislation does not comment on whether combining two dwellings into one would constitute development. In this case the proposal is to merge two residential units in the building. This would mean it goes from two units to one unit in this building, resulting in a net loss of one residential unit.

4.2 Whether loss of an existing use has material planning consequences, even with no amenity or environmental impact, is relevant to considering whether that change is a material change of use. Local plan policies can be a material consideration in this assessment (although not determinative).

4.3 Camden Local Plan policy H1 seeks to maximise housing supply, but policy H3 resists the loss of residential floorspace, and resists the net loss of two or more homes (from individual or cumulative proposals).

4.4 There would be no loss of residential floorspace, and only loss of a single unit. There has been no other net loss of residential unit numbers in the building in the last 10 years. In this context, the proposal would not materially impact the Borough’s housing stock, nor the ability of the Council to meet its increased housing targets. The building would remain in residential use.

4.5 No material alteration to the external appearance of the building is proposed. The de-intensification of the units from two to one would have no material impact of neighbour amenity, environment, or infrastructure.

4.6 The works are not considered to fall within the “meaning of development” requiring planning permission of section 55(2)(f) as defined by the Town and Country Planning Act 1990.

4.7 Relevant to this determination is the appeal case reference:

APP/X5210/X/17/3172201 (2 & 3 Wildwood Grove; ref: 2016/5621/P) in Camden, which was allowed on 15/01/2018 for the conversion of two residential dwellings into one. In the assessment, the Inspector considered that the amalgamation of two dwellings into one would not be a material change of use and therefore would not constitute development.

5.0 Conclusion

5.1 The works for this application would not constitute development as defined by section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.

5.2 Grant Certificate of Proposed Lawful Development.