

11 March 2023

Planning Department
London Borough of Camden
2nd Floor,
5 Pancras Square
c/o Town Hall,
Judd Street
London
WC1H 9JE

Dear Sir/Madam,

62 & 64 Belsize Park Gardens Belsize Park, London NW3 4NE

**Lawful Development Certificate in Respect of Proposed Amalgamation of the Existing
Ground Floor Flats of 62 Belsize Park Gardens & 64 Belsize Park Gardens**

On behalf of our client, please find enclosed an application for a Lawful Development Certificate relating to the above address, Camden. The application has been submitted online via the Planning Portal.

Specifically, for the avoidance of doubt, the application seeks confirmation that planning permission is not required for the proposed amalgamation of two existing (Use Class C3) residential apartments, into one residential apartment (Use Class C3).

In accordance with the Council's Local Area Requirements for Planning Applications, the application is accompanied by the following documents:

- Completed Lawful Development Proposed Use Planning Application Form;
- Site location plan;
- Existing and proposed and floorplans.

The Site

64 & 62 Belsize Park Gardens is a three-storey (plus lower ground & loft) semi-detached property located on the westerly end of Belsize Park Gardens. The property is currently used as private residential accommodation, containing separate apartments. The application relates to the amalgamation of the lower ground floor flats of both 62 & 64 Belsize Park Gardens.

The site is situated within the Belsize Conservation Area, although the building itself is not statutory or locally listed.

Proposed Amalgamation

A Certificate of Lawfulness is sought for the proposed amalgamation, at lower ground floor level, of both adjoining lower ground floor flats into one single abode. In order to achieve this, a single opening is proposed between the adjoining party wall of No. 62 & 64.

The applicant seeks to confirm through this application that the amalgamation does not constitute development and accordingly planning permission is not required, under Section 55 of the Town and Country Planning Act (TCPA) 1990.

Section 55(1) of the TCPA 1990 stipulates that planning permission is required for 'development', which includes *"the making of any material change in the use of any buildings"*.

Part 3(a) of Section 55 of the TCPA 1990 expands further to state that *"the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used"*. However, the legislation does not provide comment on whether combining two dwellings into one constitutes 'development'.

It is therefore prudent to assess whether the proposed amalgamation would constitute such a material change of use. Case law has established that in considering whether there is a change of use, the character of the use of the land is to be considered, and whether the change to this use is material (East Barnet UDC v British Transport Commission [1962]).

In this case, it can be seen that there would not be any material change in the character of the use of the land brought about by the amalgamation of the two dwellings. The use of the building would remain as private residential accommodation (Use Class C3). Any change would be imperceptible.

This conclusion is supported by the decision of the Inspector in an Appeal for 2-3 Wildwood Grove, Camden, NW3 7HU (Ref. APP/X5210/X/17/3172201). The Inspector considered the amalgamation of two houses into a single unit and concluded that the nature of the use remained the same, and that there would have to be a significant difference proposed in order to be considered a change of use.

Furthermore, Part 2 of Section 55 of the TCPA also sets out operations or uses of the land which should not be taken to involve development. Sub-sections (a) and (f) are relevant for this application. Sub-section (a) states that:

"(a) The carrying out for the maintenance, improvement or other alteration of any building of works which:

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building"

As noted above, the proposed alterations would only affect the interior of the building, and would not impact on the external appearance of the building, therefore satisfying sub-section (a).

Sub-section (f) notes:

"In the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land

or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class". (Our emphasis).

As demonstrated throughout this covering letter and supporting documentation, both the existing apartments and the subsequent proposed single unit fall within Use Class C3: Dwellinghouses of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal therefore satisfies sub-section (f).

In addition to the above, although planning policy is not considered to be relevant for the determination of this application, it is worth highlighting that Policy H3 Protecting Existing Homes from the Camden Local Plan (2017) states that:

"The Council will ensure that the existing housing continues to meet the needs of existing and future households by:

a) Resisting development that would involve a net loss of residential floorspace...

c) Resisting development that would involve the net loss of two or more homes (from individual or cumulative proposals)..."

It can be seen as part of this application that there will be no net loss of residential floorspace, and the proposals will only result in the loss of one unit. The proposals would not therefore, conflict with the relevant planning policies of the Development Plan nor would it materially impact the Borough's ability to meet its housing targets. Beneficially, the proposals also allow for the creation of family sized accommodation.

Following the amalgamation into the single dwelling, the floorspace and use of the site will remain in a residential use, and therefore cannot be considered to be a material change of use. On this basis, the works which comprise this Certificate of Lawfulness do not fall within the meaning of 'development', which would require planning permission as defined in Section 55(1) of the Town and Country Planning Act (1990).

There are also a number of other certificate of lawfulness applications within the London Borough of Camden whereby similar amalgamations where Officers have confirmed that the proposals do not require planning permission, thus setting a precedent for this application. These are summarised in the table below:

Application Ref.	Address	Description of Development	Decision
2019/3652/P	17 and 18 Well Road London NW3 1LH	Amalgamation of two properties into a single dwelling.	Granted 15-10-2019
2019/1399/P	28 Frognal Lane London NW3 7DT	Amalgamation of two flats (lower ground floor and ground floor) into single dwelling	Granted 03-04-2019

2019/0002/P	23 Hampstead Hill Gardens London NW3 2PJ	Amalgamation of two flats at basement and ground floor levels	Granted 19-03-2019
2020/2804/P	27 Belsize Park London NW3 4DU	Amalgamation of 2no. flats into a single residential unit at lower ground level (Use class C3).	Granted 25-06-2020

Summary

A Lawful Development Certificate is sought to confirm that the amalgamation of the two residential apartments does not require planning permission. As part of this application, only internal alterations in the form of an opening between the 2 flats is proposed.

This Covering Letter has sought to demonstrate how it is well evidenced within case law and other applications that the proposal which is the subject of this Lawful Development Certificate does not comprise a material of change of use, and therefore no 'development' in accordance with Section 55 of the TCPA 1990 would take place. In this instance, it can clearly be demonstrated that on these grounds planning permission is not required.

We look forward to receiving your formal acknowledgement of this application. Should you require any further information or wish to discuss it before the Certificate is issued, please do not hesitate to contact XUL Architecture.