



London Borough of Camden  
Planning - Development Control  
Camden Town Hall  
London  
WC1H 8ND

PR/JK/33329  
23 April 2024

Dear Sir/Madam,

**RE: CERTIFICATE OF LAWFUL DEVELOPMENT (PROPOSED) IN RESPECT OF THE AMALGAMATION OF TWO SELF-CONTAINED FLATS INTO A SINGLE DWELLING HOUSE**

**FLAT 4, 9 CAMBRIDGE GATE AND FLAT 5, 7 CAMBRIDGE GATE, NW1 4JX**

We write on behalf of our client, Mrs Aigul Ikhsan ("the Applicant"), the owner of Flat 4, 9 Cambridge Gate and Flat 5, 7 Cambridge Gate, to apply for a Certificate of Lawfulness (Proposed Development) under Section 192 of the Town and Country Planning Act 1990 ("the Act").

This application seeks confirmation from the London Borough of Camden ("LB Camden") that the proposed amalgamation of the two flats within the building to a single-family dwellinghouse would not comprise 'development' within the meaning of Section 55 of the Act and therefore would be lawful without the need for express planning permission.

This application comprises the following plans and documents which describe and support the application:

- Covering Letter and Assessment (i.e. this letter);
- S192 Application Form;
- Existing Site Location & Block Plan;
- Existing 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Floor Plans; and
- Proposed 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Floor Plans;

The relevant application fee will be paid on submission of the application via the Planning Portal.

**Description of Proposed Development**

The proposed works are described as follows:

*"Amalgamation of the existing two self-contained flats into one single dwellinghouse (Class C3)"*

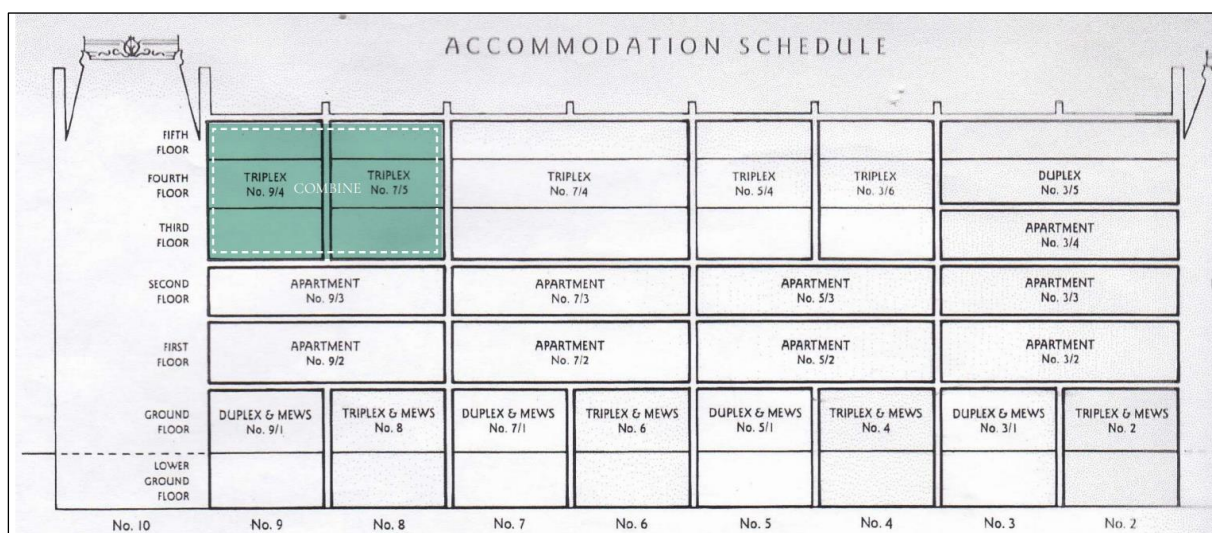
**The Site**

7 and 9 Cambridge Gate form part of a terrace of ten townhouses (1-10 Cambridge Gate) that overlook The Regent's Park. They were built in 1877 by Archer and Green and were

collectively listed at Grade II in May 1974. The terrace consists of five above-ground storeys with a mansard roof and one lower ground floor.



The Applicant owns the long leaseholds of Flat 4, 9 Cambridge Gate and Flat 5, 7 Cambridge Gate. Both flats are 'triplex' units (i.e. the accommodation of each flat extends over three vertical floors). The Applicant wishes to laterally amalgamate the two flats into one larger dwellinghouse to accommodate their extended family. This is shown in the below accommodation schedule.



The submitted proposed floorplans demonstrate the necessary internal works required to facilitate the amalgamation. Listed Building Consent (LBC) would be required for the internal works and an application will be forthcoming, but that is a separate consideration to what this Certificate seeks.

## Planning History

The planning history for 1-10 Cambridge Gate is extensive and predominantly consists of LBCs for various internal and external alterations that are not considered relevant for the purposes of this application. Below is a summary of the applications that we consider may be of relevance.

LPA Ref	Address	Description	Decision/Date
9400493	1-9 Cambridge Gate & 1-9 Cambridge Gate Mews NW1	Change of use and works of conversion from office and residential use to 23 self-contained flats and a single family dwelling together with works of demolition extension and alteration.	Granted 01/09/1994
9500979	10 Cambridge Gate and 10 Cambridge Gate Mews NW1	Alteration to the mews elevation in connection with the reorganisation of the parking layout at ground floor level together with the retention of three self-contained flats and a porter's flat/reception.	Granted 04/08/1995
LS9704260	Flats 2 & 3, 10 Cambridge Gate, NW1	Internal alterations, including the installation of a new staircase, in connection with the amalgamation of flats 2 and 3.	Granted 16/05/1997
2017/6937/L	Flat 2-3, 10 Cambridge Gate London NW1 4JX	Internal works to separate existing flat into two flats.	Withdrawn 10/01/2018

Planning Permission and LBC were granted at 1-9 Cambridge Gate in September 1994 for the change of use and required works to *"convert the building from office and residential use to 23 self-contained flats and a single-family dwelling"* (LPA ref. 9400493). It is understood that the property at 10 Cambridge Gate was excluded from this application as it comprised a Mansion Block of apartments and had been extensively reconstructed in 1956 following bomb damage from the war. The tenants of 10 Cambridge Gate were then granted long leases by The Crown Estates.

Subsequent planning history suggests that the only amalgamation that has occurred across the whole of 1-10 Cambridge Gate was Flat 2 and 3 at 10 Cambridge Gate, which was granted LBC (LPA ref. LS9704260) for the facilitating internal works in May 1997. An LBC application for works to split Flat 2 and 3 back into self-contained units was withdrawn in January 2018 (LPA ref. 2017/6937/L). It is not known why the application was withdrawn.

## Council Tax Records

Existing council tax records (**see Appendix 1**) appear to confirm that 1-9 Cambridge Gate continues to consist of 24 units (as per the 1994 permission) whilst 10 Cambridge Gate contains nine units (including Flat 2/3, amalgamated in the late 1990s) plus a Porter Flat.

## Lawfulness of the Development



Planning permission is only required for proposals which constitute “development” within the meaning of Section 55(1) of the Town and Country Planning Act 1990, which includes the carrying out of operational development and making a material change of the use of land. The proposed amalgamation of two units is a non-operational development, as the necessary physical works affect only the interior of the building.

Therefore, the main issue is whether or not the proposed amalgamation constitutes a material change of use, being a change in the character of the use of the land. Whilst S55(3) of the Town and Country Planning Act 1990 clarifies that the split of a single dwelling to two or more dwellings is development within the meaning of the Act, the Act is otherwise entirely silent in respect of amalgamation of dwellings.

It was held in the case of *London Borough of Richmond v Secretary of State for the Environment, Transport and the Regions and Richmond upon Thames Churches Housing Trust QBD [2000]* that the question of whether amalgamation involves a material change of use is a question of fact and degree in any individual case. In *Richmond*, the Inspector had concluded that the conversion of seven flats into one dwelling did not amount to a material change of use. In reaching this conclusion, the Inspector had disregarded the effect of the loss of a particular type of accommodation from within the authority’s area. The Court quashed the Inspector’s decision, holding that the extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether a material change of use has occurred, and, particularly whether the loss of a particular type of residential accommodation would be resisted by specific planning policies. Whether or not amalgamation of residential units constitutes a material change of use must include consideration therefore of the planning policies in place and evidence of need.

In the subsequent case of *R (on the application of Royal Borough of Kensington and Chelsea) v Secretary of State for Communities and Local Government [2016] EWHC 1785 (Admin)* the High Court further determined that the decision maker is entitled to rely on an analysis of the effect of amalgamations upon housing supply, even where planning policy is silent in respect of such conversions. The Court agreed in that case that it was lawful to consider the extent of amalgamations in a borough and whether it was having a material effect in terms of reducing housing supply.

Camden’s Local Plan (July 2017) post-dates both of the judgments outlined above and it can be assumed that the London Borough of Camden, in preparing their local plan, has taken into account the above case law. The text of the local plan is therefore highly relevant to determining whether a material change of use would occur in the case of amalgamations. This is particularly so as, in the context of the *Richmond* and *RBKC* judgements, a Council might choose to develop and adopt restrictive (or otherwise) policies specifically in relation to amalgamation for reasons related to housing delivery and the protection of specific types of residential accommodation.

The Local Plan does, in fact, set out the Council’s approach to amalgamations in this context. Policy H3 relates to the protection of existing homes and states that the Council will resist development that would involve a net loss of residential floorspace and that would involve the net loss of two or more homes (from individual or cumulative proposals). The local plan confirms that the combination of residential units which does not meet this threshold may not constitute development (para 3.75).

In this instance, there is no loss of residential floor space and only the loss of one unit and, as such, it does not meet the threshold for meeting the Council’s resistance, and – in the



words of para. 3.75 – “may not constitute development” (noting that this text has been written in the light of the *Richmond* and *RBKC* judgements).

LB Camden have recently consulted on a Regulation 18 Draft New Local Plan which sets the potential direction for policy in the Borough based on the most up to date available evidence on housing need and supply, including the updated Local Housing Needs Assessment (2023). It is relevant to note that, in this context, emerging Policy H3 (again, relating to the protection of existing homes) is similarly worded to the current adopted policy and says that the Council will resist development involving conversion of existing housing that would result in the net loss of homes, unless the development “*creates one larger home through the net loss of one home, taking into account extant permissions and cumulative change since June 2006*” [underlined for emphasis].

According to the evidence available (see above planning history section), the only previous loss of residential units in ‘the building’ (if that is taken to be the entirety of the terrace i.e. 1-10 Cambridge Gate) occurred as long ago as 1997 when Flat 2 and 3 at 10 Cambridge Gate were amalgamated.

The building would remain in residential use and there are no material alterations proposed to the external appearance of the building. The de-intensification of the units from two to one would have no material impact on neighbouring amenity, environment, character or infrastructure. The loss of a single unit of housing is not considered to have any material effect on housing supply in the borough, and indeed the justification for the amalgamation is to enable an increase in the size of the household.

There are numerous examples in the Borough whereby the amalgamation of two dwellings into one have been considered to not constitute a material change of use, both under delegated authority and at appeal. This includes appeal reference APP/X5210/X/17/3172201 (Council reference: 2016/5621/P) and application references 2019/1399/P, 2019/3652/P, 2019/4264/P, 2021/6239/P, and 2023/4971/P.

The proposal results in the loss of a single dwelling and does not result in the loss of any residential floorspace. There would be no conflict with Local Plan Policy H3, a policy formulated in the context of the *Richmond* and *RBKC* judgements to protect the Borough’s housing stock, and the supporting text at para. 3.75 indicates that such a change “may not constitute development”. The emerging Local Plan confirms that the Council’s approach on this point has not changed in light of more recent evidence which is being used to formulate policy.

## **Conclusion**

The proposed amalgamation of two residential flats into a single residential flat is not development, as defined by section 55 of the Town and Country Planning Act 1990, since the proposal does not constitute a material change of use and no building operations are proposed. It is therefore respectfully requested that a certificate is issued.

I trust the commentary above is clear but please do not hesitate to contact me if you have any queries or if I can offer any further points of clarification.

Yours faithfully,



A handwritten signature in black ink, which appears to read 'Jack Karagoz', with a horizontal line drawn underneath it.

**Jack Karagoz**  
**Senior Planner - Planning - DHA London**  
M: 07564320961  
E: [jack.karagoz@dhaplanning.co.uk](mailto:jack.karagoz@dhaplanning.co.uk)

# APPENDIX

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## **Registered Council Tax Addresses for 1-10 Cambridge Gate (as of April 2024)**

The Government's Council Tax band check website (<https://www.gov.uk/council-tax-bands>) confirms that the following addresses are actively registered addresses for the purposes of Council Tax.

- 1 Cambridge Gate
  
- 2 Cambridge Gate
  
- Flat 1, 3 Cambridge Gate
- Flat 2, 3 Cambridge Gate
- Flat 3, 3 Cambridge Gate
- Flat 4, 3 Cambridge Gate
- Flat 5, 3 Cambridge Gate
- Flat 6, 3 Cambridge Gate
  
- 4 Cambridge Gate
  
- Flat 1, 5 Cambridge Gate
- Flat 2, 5 Cambridge Gate
- Flat 3, 5 Cambridge Gate
- Flat 4, 5 Cambridge Gate
  
- 6 Cambridge Gate
  
- Flat 1, 7 Cambridge Gate
- Flat 2, 7 Cambridge Gate
- Flat 3, 7 Cambridge Gate



- Flat 4, 7 Cambridge Gate
- Flat 5, 7 Cambridge Gate
  
- 8 Cambridge Gate
  
- Flat 1, 9 Cambridge Gate
- Flat 2, 9 Cambridge Gate
- Flat 3, 9 Cambridge Gate
- Flat 4, 9 Cambridge Gate
  
- Porters Flat, 10 Cambridge Gate
- Flat 1, 10 Cambridge Gate
- Flat 2/3, 10 Cambridge Gate
- Flat 4, 10 Cambridge Gate
- Flat 5, 10 Cambridge Gate
- Flat 6, 10 Cambridge Gate
- Flat 7, 10 Cambridge Gate
- Flat 8, 10 Cambridge Gate
- Flat 9, 10 Cambridge Gate
- Flat 10, 10 Cambridge Gate