

14<sup>th</sup> October 2024  
Our Ref: 24.5051

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Planning Department  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Dear Sir/ Madam,

**Re: 21 Arkwright Road, London, NW3 6AA - Certificate of Lawfulness for Existing Use of the Amalgamation of two flats into a Single Dwelling (Class C3)**

On behalf of our client, Dan Phillipson and Marta Vascotto, we have been instructed to prepare and submit an application for a Certificate of Lawfulness for the Existing Use of Development pursuant to s191 of the Town and Country Planning Act 1990 ('the TCPA') at 21 Arkwright Road, London ('the Site').

The existing use of the Site relates to the amalgamation of two flats into a single family-sized dwelling. This letter sets out the background to the proposal, before detailing why the amalgamation of the two residential properties into a single dwelling does not constitute development and therefore does not require planning permission.

The following information has been submitted to support the application:

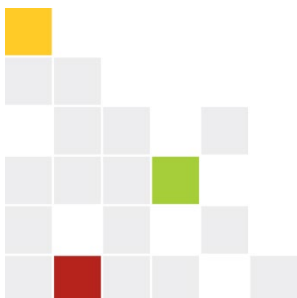
- Application form;
- Site location plan; and
- Existing and pre-existing plans.

The application including all supporting information is submitted online and requisite planning application has been paid via the Planning Portal (reference: PP-13164606).

## Site and Surroundings

The application property is situated in Hampstead, Camden. The property is located on the southern side of Arkwright Road and forms part of a 5-storey residential terrace. The Site was originally built as a single dwelling before being converted into three separate dwellings. In 2009 planning permission was granted (ref: 2009/3732/P) for the retention of the maisonette at the lower level and conversion of upper floors to form a single maisonette, resulting in two separate dwellings. The subsequent amalgamation undertaken in 2024 is to restore the building into a single family-sized dwelling. The Site is located within Redington and Frogna Conservation Area, however the property is not listed.

The surrounding area is predominately characterised by residential uses, however the Site is in close proximity to Finchley Road which is occupied by several commercial uses, such as shops and offices.



## Planning History

### *The Site*

The table below outlines the most relevant planning history for the Site.

Reference	Description of Development	Decision and Date
2022/3946/P	Details of front zinc canopy at basement level, and full details of hard and soft landscaping and means of enclosure of all un-built, open areas as required by conditions 4 and 5 of planning permission 2021/3123/P dated 23/05/2022.	Granted 27/09/2024
2021/3123/P	To front, new brick pier and timber gates, enlarged bin and cycle store, new canopy to basement flat entrance; to rear, erection of single storey rear extension at basement level within rear lightwell, replacement of window with door at lower ground level, new Juliet balcony at ground level, rear boundary wall raised; new window to side elevation at first floor level, all to existing two flats.	Granted 23/05/2022
2009/3732/P	Change of use of a self-contained flat on the ground floor and a self-contained maisonette on the first and second floors into single maisonette (1 x 4-bedroom) and retention of existing maisonette (1 x 2-bedroom) at basement and lower basement level (Class C3).	Granted 13/10/2009
27817	External alterations to the front and back garden areas in association with the continued use as three self-contained dwelling units.	Granted 28/03/1979

### *Surrounding Area*

Within Camden there are numerous similar applications which have been granted by London Borough of Camden ('LB Camden'). These all involve Certificate of Lawfulness applications being granted for the amalgamation of two flats into a single dwellinghouse. Some recent precedents are provided in the table below:

Address	Reference	Description of Development	Decision and Date
Flats 8-9 1a St John's Wood Park London NW8 6QS	2024/1824/P	Amalgamation of 2 x residential units at 4th and 5th floor levels (Flats 8 and 9) into a single self-contained duplex unit (Class C3).	Granted 31/05/2024
Flat 4, 9 Cambridge Gate and Flat 5, 7 Cambridge Gate London NW1 4JX	2024/1601/P	Amalgamation of the existing two self-contained maisonettes into one single dwelling house (Class C3)	Granted 28/05/2024
Garden Flats 62 & 64 Belsize Park Gardens London NW3 4NE	2024/0994/P	Amalgamation the existing two lower ground floor flats at nos. 62 & 64 into one self-contained flat (Use Class C3).	Granted 09/05/2024
69 Patshull Road London NW5 2LE	2024/0016/P	Amalgamation of the two existing flats into one self-contained flat (Use Class C3).	Granted 16/01/2024
45 Elsworthy Road London NW3 3BS	2023/4971/P	Amalgamation of the existing two self-contained flats into one single dwellinghouse (Class C3).	Granted 09/01/2024
Flat Basement Rear 5a Belsize Square London NW3 4HT	2023/4351/P	Amalgamation of the existing two lower-ground floor flats into one self-contained flat (Use Class C3).	Granted 21/11/2023
58 Eton Avenue London NW3 3HN	2021/6028/P	Amalgamation of two flats to us as a single residential unit (Class C3).	Granted 24/01/2022
7 Adamson Road London NW3 3HX	2021/5301/P	Amalgamation of two flats into one at lower ground floor level.	Granted 07/01/2022

### Amalgamation of Flats

Before the property was amalgamated to one dwelling it comprised two flats: one flat at the upper floors of the property (ground, first and second floor) and one on the lower floors of the property (lower ground and basement). The amalgamation of these flats to a single-family dwelling was facilitated by the removal of the partition on the ground floor dividing the lower flat from the upper flat. This amalgamation did not involve any external alterations and the building will appear entirely unchanged.

## Assessment

Under Section 55(1) of the Town and Country Planning Act 1990, planning permission is required for “development”, which includes the making of a material change in the use of the land. The key issue, therefore, is whether the amalgamation of two dwellings to create a single property would constitute a material change in the use of the land.

The two flats were previously in use as residential dwellings (Class C3) and the amalgamation of the two dwellings into a single dwelling has not resulted in a loss of the Class C3 use. Furthermore, it should be noted that the amalgamation of the dwellings has not led to any changes to the external appearance of the buildings, as such there is no adverse impact on the Conservation Area or the street scene. The property has also remained in residential use. As such, it is clear that there has been no material change to the use of the property or any material impact on the surrounding area, thereby demonstrating that the amalgamation does not constitute development.

This position is confirmed by various case law examples, which has established that when considering whether there is a change of use, the character of the use of the land is to be considered and whether the change is material (*East Barnet UDC v British Transport Commission* [1962]). As discussed above, in the case of the subject property, the amalgamation of two dwellings into one has not resulted in any material change in the character of the use of the land, with this remaining in residential use (Class C3). This is supported by the Inspector’s decision in the 2-3 Wildwood Grove appeal (Ref: APP/X5210/X/17/3172201) in which the Inspector considered that the amalgamation of two dwellings into a single dwelling was acceptable as the nature of the use remained the same and would have to be significantly different to be considered a change of use. It is therefore considered that the Wildwood Grove appeal has established that the amalgamation of two dwellings into a single dwelling is acceptable and does not constitute a material change of use.

## Conclusion

To summarise, the amalgamation of the flats has provided a much-needed larger living area for the family home and has not caused any harm to the privacy and amenity of neighbouring properties. The amalgamation has not adversely impacted the character and appearance of the surrounding area or the Conservation Area, as there have been no external changes as a result of the amalgamation.

The amalgamation has resulted in the loss of one net dwelling but has not led to any loss of residential floorspace. Furthermore, the use class of the property (C3) has remained the same. It is therefore clear that the amalgamation of the flats does not constitute development; there will no material change to the use of the property. This is confirmed by case law and the recent examples throughout Camden, which set the precedent for this amalgamation.

Accordingly, it is our client’s and our reasonable expectation that permission Certificate of Lawful Existing Use will be granted for the existing amalgamation and respectfully request that a certificate be issued on this basis.

We trust you have sufficient information to validate and subsequently determine the application. However, should you require any additional information please do not hesitate to contact me.

Yours sincerely

*Zoe Curran*

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