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Via Planning Inspectorate

Revised 5th March 2025

**RE: Appeal against refusal of application 2024/2580/P
Certificate of Lawful Development (Proposed) for the amalgamation of two self-contained maisonettes into
a single dwellinghouse at 50 South Hill Park, NW3 2SJ.**

I am writing on behalf of Mr Sonu Shamdasani and Mrs [REDACTED] Baron of 50 South Hill Park, NW3 2SJ to appeal against the refusal of application 2024/2580/P by Camden Council. The application was made under Section 192 (1) (b) of the Town and Country Planning Act 1990 to obtain a Lawful Development Certificate to confirm that the proposed amalgamation of the two maisonettes at 50 South Hill Park into a single dwellinghouse is not classed as development and is therefore lawful. The application was submitted on 25th June 2024 and was refused on 21st August 2024, along with a request for an extension of time until that date. The reason given for refusal was that "the change of use from two homes to one home constitutes development as defined by section 55 of the Town & Country Planning Act 1990, and therefore would require planning permission."

The Site

The site, 50 South Hill Park, is occupied by a four storey semi-detached Victorian townhouse, including a lower ground floor and a mansard storey. It was built as a single dwellinghouse and was lived in as such until 1991, when an application was made to divide the house into two separate dwellings (ref. no. 9101105) to allow for the owner's relatives to live in the same building but for each side of the family to have their privacy. Subsequent to approval, the property was formally converted into two self-contained maisonettes, with both entrances accessible via steps off street level. The lower ground floor and upper ground floor form one maisonette, whose entrance sits at lower ground floor level, whilst the first floor and second floor (mansard) form the other, whose entrance is at upper ground floor level.

Viewed from the street, 50 South Hill Park reads as one dwellinghouse. Aside from the entrances as described above, there is also side access into the rear garden via a gate and some steps. The rear garden looks out over the No 1 Hampstead Pond. Its rear boundary is adjacent to Hampstead Heath, which is designated Metropolitan Open Land. The site is within the South Hill Park Conservation Area in the London Borough of Camden. The building itself is not listed.

The Application

The application sought to return 50 South Hill Park to its original status as a single dwellinghouse. It is currently being lived in as such, but to access the two top floors from the bottom two, one has to go out on to the street and use the formal entrance door, and vice versa. Currently a non structural partition divides the two flights of stairs on the upper ground floor level. A non structural opening would be formed in this partition, allowing clear access between one side and the other, thus opening up the stairs and allowing one to access all parts of the house from the inside once more. No external alterations are proposed.

Planning History

The relevant application in 50 South Hill Park's planning history is the conversion of the dwellinghouse into two maisonettes, referred to in the application as "flats", in 1991:

9101105 - Change of use and works of conversion to provide 2 two bedroom flats including installation of new steps in the front garden to give access to the lower ground floor - Granted.

Advice

Before submitting the application, we sought advice from the planning department at Camden about which type of application would be required. After having emailed my enquiry, I received a call from one of Camden's planning officers, Jaspreet Chana, who not only advised me to complete a Lawful Development Certificate application but also referred me to some recent precedents, which I have gone on to mention below.

Precedents

Recent examples of similar applications proposing the amalgamation of two dwellings into one have been confirmed as lawful and have had their applications granted. These include 45 Elsworthy Road NW3 3BS (2023/4971/P), 46 Gayton Road NW3 1TU (2021/0585/P) and 7 Well Road NW3 1LH (2020/5030/P), all of which are within Camden Conservation Areas, as is 50 South Hill Park. The decision notice for 45 Elsworthy Road states that the proposed works (the amalgamation of two self-contained flats into one single dwellinghouse) "do not constitute a material change of use and therefore do not fall within the meaning of "development" requiring planning permission as defined by the Town and Country Planning Act 1990." The application for 50 South Hill Park had the same premise, but was refused, whereas approval was granted for 45 Elsworthy Road. I have attached documents for 45 Elsworthy Road as further supporting documents.

Case for Appeal

Precedents aside, the Town and Country Planning Act 1990 and Camden's Local Plan policies were taken into account as part of the application. Section 55 of the Town and Country Planning Act 1990 sets out that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse would constitute a material change in the use of a building. There is nothing in the Act, however, that comments on whether the amalgamation of two residential units into one would constitute development. Whilst the Camden Local Plan Policy H1 seeks to maximise housing supply, Policy H3 seeks to protect existing homes by generally resisting the loss of residential floorspace and the net loss of two or more homes from individual or cumulative proposals. There would be no loss of residential floorspace as a result of this application and only the loss of a single unit. As per the site's planning history, there has been no other net loss of residential units.

The application would not materially affect the external appearance of the building as no external works are proposed. The occupants of 50 South Hill Park would continue to live in the dwellinghouse as they have been doing so otherwise. As such, the amalgamation of the two maisonettes would have no material impact on the amenities and environment of the surroundings.

As two maisonettes, 50 South Hill Park is residential and is therefore Class C3. The amalgamation of the two maisonettes into a single dwellinghouse would continue to be classed as C3. Given that both the existing and proposed uses fall into the same category of Class C3, there would be no material change in the use of the land associated with 50 South Hill Park. Furthermore, it was established at Appeal for the conversion of two residential dwellings into one at 2 & 3 Wildwood Grove (2016/5621/P) in Camden that the amalgamation of two dwellings into one would not constitute a material change of use and therefore would not constitute development.

It is of my understanding that the proposed amalgamation of the two maisonettes into a single dwellinghouse is not classed as "development" under Section 55 of the Town and Country Planning Act 1990, as it does not constitute a material change of use and no building operations as defined in the Act are proposed. Therefore, it is my belief that the proposal meets the requirements for a Lawful Development Certificate (Proposed) and should be granted approval.

Should anything further be required in the assessment of this appeal, please do not hesitate to get in touch.

Yours faithfully,



Chiara Amato
Architect