

**RE: 47 Dartmouth Park Road & Garden Flat, 47 Dartmouth Park Road, London,
NW5 1SU**

ADVICE

1. I am asked to advise the owner of 47 Dartmouth Park Road ("**the Property**"), Mr Thibault Thevissen ("**the Applicant**"), whether certain proposed works are development that would require planning permission. The local planning authority is the London Borough of Camden ("**the Council**").

Background

2. The Applicant owns the whole of the Property, which is divided into a 2-bedroom flat at lower ground level ("**the Garden Flat**") and a 5-bedroom maisonette ("**the Maisonette**") over the ground and upper floors.
3. The Applicant previously submitted an application for planning permission (ref.2025/0969/P) to amalgamate the Garden Flat and the Maisonette into a single property. The Applicant has since decided to keep the Property separated into two residential units of occupation.
4. The proposed works about which I am asked to advice consist of the creation of an interconnecting staircase between the Garden Flat and the Maisonette. Currently, there is no internal staircase connecting the two properties.
5. The proposed staircase will feature a dual lockable door. This means that there will be two locks to the connecting door, with one household having control of each lock. Both households would have to unlock the door to enable access between the dwellings. In other words, the residents of the Maisonette would not be able to access the Garden Flat without the consent of the residents of the latter dwelling, and vice versa. As such, the fully self-contained nature of both the flat and the maisonette would be preserved.

6. I am told that if the proposed works are carried out, the Garden Flat would be used as an independent unit of accommodation for an elderly relative. The staircase would enable the occupants of the two units to 'drop in' on one another without having to enter and exit through the front doors.

Advice

7. Whether planning permission is required for the proposed works depends on whether they amounts to 'development'. Section 55(1) of the Town and Country Planning Act 1990 ("**TCPA 1990**") defines development to include both operational development and material changes in the use of any buildings or land.
8. In terms of whether the proposed works are operational development, section 55(2) TCPA 1990 expressly excludes from the scope of operational development the carrying out of works for the maintenance, improvement or other alteration of any building where those works (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building. In the present case, the proposed staircase will be wholly internal and will have no effect on the external appearance of the Property. In those circumstances, the proposed physical works are not operational development requiring planning permission.
9. In terms of the question whether the proposal amounts to a material change of use of the Property, this is a question of fact and degree. A material change of use is one which brings about a definable change in the character of the use made of the land (*Hertfordshire CC v Secretary of State for Communities and Local Government* [2012] JPL 836 at [40]). The character of the use of the Property must change so substantially as to amount to a material change of use (*see, for example, Blackpool BC v Secretary of State for the Environment* (1980) 40 P&CR 104 at 111).
10. In my view, based on the factual background set out above, the insertion of the proposed staircase will not amount to a material change in the use of the Garden Flat or Maisonette. Both dwellings will remain in use as independent, self-contained

class C3 dwellings. They will remain as separate planning units, with neither residential unit being lost. It is therefore arguable that there will not be *any* change in the use of the dwellings, let alone a material change.

11.If, however, it is considered that introducing the proposed works will lead to a change in the character of the use of the Property, it is difficult to see how such a change would be anything more than *de minimis*. The only change would be the ease with which the residents of each dwelling would be able to obtain access to one another's properties. The dwellings would be accessible internally, rather than only being accessible externally. The dual-lock door would however remain in place to ensure that such access could not be obtained without the consent of both sets of residents, as is currently the case. The self-contained and independent nature of each dwelling would therefore be preserved. Nor would there be a breach of policy H3 of the Council's Local Plan, or of draft policy H3 of the Local Plan Review. Any change in the use of the Garden Flat or Maisonette resulting from the proposed works would likely not be so substantial as to amount to a material change of use.

Conclusion

12.My view is that the proposed insertion of a staircase and a dual lock door at the Property would be neither operational development nor a material change in the use of the Maisonette or Garden Flat. As such, it is not development requiring planning permission. If you require any further assistance please do not hesitate to contact me.

Flora Curtis
39 Essex Chambers
27 May 2025