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## Via Planning Portal Only

26<sup>th</sup> October 2021

Dear Sir/Madam

### **CERTIFICATE OF LAWFUL DEVELOPMENT (PROPOSED) WITH RESPECT TO THE AMALGAMATION OF 2 LOWER GROUND FLATS INTO A SINGLE DWELLING AT NO. 5 ADAMSON ROAD ADAMSON ROAD, NW3 3HX.**

This is an application 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 two lowerground floor flats at no.5 Adamson Road is not development and thus lawful.

#### **Description of Proposed Development**

Amalgamation of two flats into one.

#### **The Site**

The site is located on the north side of Adamson Road, to the east of the junction with Winchester Road. The site comprises of a 4 storey (with basement), semi-detached, property which has been subdivided into 9 flats. This application concerns the two lowerground flats.

The site is on a street comprised of similar residential properties. The site lies within the Belsize Park Conservation Area.

## **Planning History**

### **Application site:**

On the 21<sup>st</sup> of April 1972, planning permission (reference H7/3/15/13055) was granted for the conversion of basement at no. 5 Adamson Road to provide 2 self-contained flats.

On the 31<sup>st</sup> of January 1975, planning permission was refused for 3 applications (references H7/3/B/19775, H7/3/B/18926R and H7/3/B/19625R) for the change of use of the first, second and third floor to provide 2 self-contained flats on each floor at both no.5 and no.7 Adamson Road. The applications were refused on the grounds of inadequate room sizes and exceeding the density standards.

On the 10<sup>th</sup> of April 1975, permission (reference H7/3/B/20303) was granted for the change of use of the first floor to provide 2 self-contained flats at no.5 Adamson Road.

On the 5<sup>th</sup> of August 2021, a lawful development certificate (reference 2021/2543/P) was granted for the continued use of no.5 and no.7 Adamson Road as 19 self-contained residential flats (C3).

### **Other relevant planning history:**

On the 15<sup>th</sup> of January 2018, an appeal was allowed (reference APP/X5210/X/173172201) for the use of 2 and 3 Wildwood Grove as one single dwellinghouse.

On the 19<sup>th</sup> of March 2019, a lawful development certificate proposed (reference 2019/0002/P) was granted for the amalgamation of two flats at basement and ground floor levels at 23 Hampstead Hill Gardens.

On the 3<sup>rd</sup> of April 2019, a lawful development certificate proposed (reference 2019/1399/P) was granted for the amalgamation of two flats (lower ground floor and ground floor) into a single dwelling at 28 Frognal Lane.

On the 5<sup>th</sup> of June 2019, a lawful development certificate proposed (reference 2019/2064/P) was granted for the amalgamation of two flats at ground and first floor levels at 69 Patshull Road.

On the 9<sup>th</sup> of September 2019, a lawful development certificate proposed (reference 2019/4264/P) for the amalgamation of two flats into a single dwelling house (class C3) at 21 Gascony Avenue.

## **The Lawfulness of The Proposed Development**

Section 55(1) of the Town and Country Planning Act 1990 sets out that planning permission is required for “development”, including making a material change of use of land. The main issue arising is whether or not an amalgamation of two dwellings to one would constitute a material change of use.

The East Barnet UDC v British Transport Commission [1962] case established that the character of the use of the land is an important consideration in the assessment as to whether a change of use of land is material. In this case, the existing and proposed use would continue to be residential (C3 use class). There would be no material change in the character of the use of the land associated with the proposed amalgamation. No external alterations are proposed. The proposal would have no impact on the residential character of the area. 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 and application references 2019/0002/P, 2019/1399/P, 2019/3652/P and 2019/4264/P.

The London Borough of Richmond upon Thames v The Secretary of State for the Environment, Transport and the Regions and Richmond upon Thames Churches Housing Trust [2000] case concluded that the Planning Inspector was wrong to exclude the impact of the loss of small units of accommodation from his consideration of whether a material change of use had occurred. The Royal Borough of Kensington and Chelsea v Secretary of State for Communities and Local Government [2016] found that the Local Planning Authority was entitled to consider the impact of the amalgamation on housing supply irrespective of the fact that the adopted plan did not have a policy on such a matter.

Camden Local Plan Policy H3 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). Camden’s Planning Guidance on Housing (2021) provides useful guidance on how the Council interpret Local Plan Policy H3. Of particular note is paragraph 10.1, which confirms that guidance does not relate to applications for Lawful Development Certificates.

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. The proposal would not have a material impact on the Borough’s housing stock or impact on the ability of the Council to meet its housing target. The proposal does not constitute a material change of use and therefore is not development, as defined by Section 55 of the Town and Country Planning Act 1990 (as amended).

## **Summary & Conclusion**

The proposed amalgamation of two lowerground floor flats into a single 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, appearing to read 'Stuart Minty', written over a light grey rectangular background.

**Stuart Minty**  
**Director**  
**SM Planning**