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Via Planning Portal Only

21 February 2022

Dear Sir/Madam

CERTIFICATE OF LAWFUL DEVELOPMENT (PROPOSED) WITH RESPECT TO THE AMALGAMATION OF FLAT AND RESIDENTIAL DWELLING INTO A SINGLE DWELLING AT 12 PILGRIMS LANE, LONDON, NW3 1SN.

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 amalgamation of the flat and dwelling at 12 Pilgrims Lane is not development and thus lawful.

Description of Proposed Development

Amalgamation of two dwellings into one.

The Site

The site is located on the east side of Pilgrim's Lane opposite the junction with Kemplay Road. The existing site comprises of a semi-detached residential dwelling of two storeys with a generous garden size. Due to the difference in levels between the front and rear of the property, the property comprises a lower ground floor and the property to the rear reads as three storeys.

The dwelling is located on a prominent corner plot which lies within the Hampstead Conservation Area and is listed as a positive contributor to the surrounding area. The site is located within the Hampstead Neighbourhood Plan Area.

The site has good access to public transport links and has a public transport accessibility level (PTAL) rating of 4. The site is located within flood risk zone 1 and therefore has a low probability of flooding. There are trees within the site that are subject to Tree Preservation Orders.

Planning History

Application site:

On the 3rd of October 1987, planning permission (CTP/E7/17/2/4342) was granted for the erection of a timber car whalter.

On the 6th of August 1970, planning permission was granted (reference CTP/E7/17/2/9434) for the addition of first and second floor storeys onto the garage at the side of 12 Pilgrims Lane to for self-contained two bedroom flat.

There also several permissions for tree works on the site but are not considered directly relevant to the proposal and, for brevity, the details of which will not repeated here.

Other relevant planning history:

On the 15th 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 19th 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 3rd 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 5th 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 9th 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 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 the residential flat and residential dwelling into a single dwelling 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



**Stuart Minty
Director
SM Planning**