

LDC (Proposed) Report		Application number	2022/0982/P
Officer		Expiry date	
Obote Hope		06/04/2021	
Application Address		Authorised Officer Signature	
76 South Hill Park London NW3 2SN			
Conservation Area		Article 4	
South Hill Park		Yes	
Proposal			
Amalgamation of the flats to the rear at lower and ground floors into a self-contained maisonette (Use Class C3).			
Recommendation:	Grant Lawful Development Certificate		

1.0 Site Description

- 1.1** The application site is located on the west side of South Hill Park, and comprises a four storey (plus a basement and small lower basement) terraced property. The Property is currently sub-divided into four self-contained flats. The host building is located within the South Hill Park Conservation Area and the Hampstead Neighbourhood Plan Area.
- 1.2** Flats C and D are both the subject of this Lawful Development Certificate application, the flats comprise of a one bedroom flat at ground floor level (Flat C), and a one bedroom flat at lower basement and basement levels (Flat D). The lower basement element of Flat D is located within a 'garden room' that projects beyond the main rear wall of the Property.

2.0 Proposal

- 2.1** A Certificate of Lawfulness is sought for the proposed amalgamation of 2 flats into 1 maisonette.
- 2.2** The applicant seeks to confirm that the alterations would not constitute development and planning permission is not required under section 55 of the Town and Country Planning Act 1990.

3.0 History

9702376 - Planning permission for the change of use of the existing two bedroom maisonette at lower ground and ground floor levels to a self-contained three bedroom flat at lower ground floor level and a self-contained one bedroom flat at ground floor level, together with the erection of a single storey extension at rear garden level. Granted on 16/07/1997.

PW9702002 – Planning permission for change of use of works of conversion to form one self-contained flat at each of ground and lower ground floor levels. **Refused** on 19.02.1997

9500317 – Planning permission for works of alteration to rear elevation including the enclosure of part of the lower ground floor and the formation of a garden level room below the existing garden terrace. **Granted** on 07.07.1995.

9200099 – Planning permission for change of use and conversion of the top floor of the existing 3 storey maisonette at basement ground and first floor levels to a self-contained flat including enlargement of the exist window opening to the rear elevations. **Granted** on 04/06/1992.

9100755 – Planning permission for the conversion of 3 storey maisonette to form self- contained flat at first floor and basement and ground floor maisonette plus erection of rear conservation at ground and first floor together with the addition of front porch and other minor alteration. **Refused** on 08.10.1991.

3.1 Related planning history (other sites in Camden)

2021/0585/P - 46 Gayton Road, NW3 1TU Amalgamation of 2 flats into a single dwellinghouse (Class C3). **Certificate of Lawfulness Granted 30/03/2021**

2020/5030/P – 7 Well Road, NW3 1LH Amalgamation of 2 flats to use as a single residential unit (Use Class C3). **Certificate of Lawfulness Granted 10-11-2020**

2020/4444/P – Chesterfield House - Flat 4 1B King Henry's Road - Amalgamation of 2 flats into a single residential unit at first floor level (Use Class C3). **Certificate of Lawfulness Granted 27-10-2020**

2020/3190/P – 38 Crediton Hill London NW6 1HR Amalgamation from 3 flats to 2 flats and infilling ground floor window opening (Class C3). **Certificate of Lawfulness Granted 21-07-2020**

2020/3286/P – 9 Evangelist Road NW3 1UA- Amalgamation of 2 flats into a single residential unit at lower ground level (Class C3). **Certificate of Lawfulness Granted 25-06-2020**

2020/2804/P – 27 Belsize Park Amalgamation of 2 flats into a single residential unit at lower ground level (Class C3). **Certificate of Lawfulness Granted 25-06-2020**

2020/1441/P – 13 Steele's Road London NW3 4SE Amalgamation of a 3 bed flat on ground and first floors with a 2 bed flat on second and third floors to form one 5 bedroom self-contained residential flat (Class C3). **Certificate of Lawfulness Granted 21-04-2020**

2020/1755/P – Flat 2 and Flat 3 53 Primrose Gardens London NW3 4UL Amalgamation of a 3 bed flat on ground and first floors with a 2 bed flat on second and third floors to form one 5 bedroom self-contained residential flat (Class C3). **Certificate of Lawfulness Granted 21-04-2020**

2020/0788/P – Upfleet Vale of Health London NW3 1AN Amalgamation of 2 bed flat over lower ground and ground floor with 1 bed flat over first floor to create a 3 bed residential unit (Class C3). **Certificate of Lawfulness Granted 17-02-2020**

2019/3652/P – 17 and 18 Well Road London NW3 1LH Amalgamation of two properties into a single dwelling. **Certificate of Lawfulness Granted 15-10-2019**

2019/4264/P – 21 Gascony Avenue London NW6 4NB Amalgamation of two flats into single dwelling house (Class C3). **Certificate of Lawfulness Granted 09-09-2019**

2019/2064/P – 69 Patshull Road London NW5 2LE Amalgamation of two flats at ground floor and first floor levels. **Certificate of Lawfulness Granted 05-06-2019**

2019/1399/P – 28 Frognal Lane London NW3 7DT Amalgamation of two flats (lower ground floor and ground floor) into single dwelling. **Certificate of Lawfulness Granted 03-04-2019**

2019/0002/P – 23 Hampstead Hill Gardens London NW3 2PJ Amalgamation of two flats at basement and ground floor levels. **Certificate of Lawfulness Granted 19-03-2019**

4.0 Assessment

- 4.1** The Town & Country Planning Act 1990, Section 55, Part 3A states that “the use as two or more separate dwelling houses of any building previously used as a single dwelling house involve a material change in the use of the building and of each part of it which is so used”. In the case of *Richmond upon Thames London Borough Council v. Secretary of State for the Environment* [2000] (“the Richmond Case”), the Judge concluded that if a proposed loss of dwellings, by way of amalgamation, resulted in planning considerations such as the loss of a particular type of accommodation which fulfilled a planning purpose, this was relevant to the question of whether the change of use would be material in planning terms. The High Court quashed a Planning Inspector’s decision to grant a Certificate of Lawful Development for the conversion of a property from seven flats to one dwelling.
- 4.2** Although not relevant in the determination of this certificate application, Camden’s Local Plan (2017) policies seek to protect existing housing by resisting development that would involve the net loss of two or more homes. As the proposal would only involve the loss of one residential unit, it is not considered to materially impact the Borough’s housing stock nor impact the ability of the Council to meet its increased housing targets. No external changes are proposed to the host building therefore there would not be a material change to the streetscene in any way. The site would remain in residential use following the conversion of two residential flats into a single flat is not considered to be a material change of use. Therefore, the works are not considered to fall within the “meaning of development” requiring planning permission of section 55(2)(f) as defined by the Town and Country Planning Act 1990.
- 4.3** With regards to judgement of whether the development is material when compared with the development plan under Camden Local Plan policies H1 and H3, as discussed above the proposal is not considered a development as the works is not considered a “material change of use”. Thus, the proposal would not be in conflict with policy H3 of the Camden Local Plan which assesses application that proposing a material change use.
- 4.4** The Hampstead Neighbourhood Plan (2018) policy HC1 resists the loss of small self-contained dwellings, either studio or 1 or 2 bedrooms, in conversions. Flats C and D are subject of this LDC application, the existing flats comprises of a one bedroom flat at ground floor level (Flat C), and a one bedroom flat at lower

basement and basement levels (Flat D). The Hampstead Neighbourhood Plan (NP) policy on loss of small self-contained dwellings (HC1) is in general accordance with policy H3 and its supporting text at 3.75 ("Net loss of one home is acceptable when two dwellings are being combined into a single dwelling"). The proposal would be acceptable in land use terms as it would result in the loss of 1 residential unit and this is in accordance with policy H3 of the Camden Local Plan and HC1 of the Hampstead Neighbourhood Plan.

5.0 Conclusion

5.1 It is considered that the works for this application would not constitute development as defined by section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.

5.2 Grant Certificate of Proposed Lawful Development.