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| LDC (Proposed) Report | | **Application number** | 2022/4108/P |
| **Officer** | | **Expiry date** | |
| Josh Lawlor | | 18/11/2022 | |
| **Application Address** | | **Authorised Officer Signature** | |
| 9 Thurlow Road  London  NW3 5PJ | |  | |
| **Conservation Area** | | **Article 4** | |
| N/A | | Basement | |
| **Proposal** | | | |
| Conversion from 3 x self-contained residential units to 2 x self-contained residential units. | | | |
| **Recommendation:** | **Grant Certificate of Lawfulness** | | |

# Site Description

* 1. The application property relates to a four storey with lower ground floor semi-detached building located on the northern side of Thurlow Road. The building is in use as three self-contained flats (2 x 3 bedroom, 5 person and 1 x 2 bedroom, 3 person). The property benefits from a large rear garden which backs onto a public footpath Shepherd’s Walk. The building is located within the Fitzjohn’s and Netherhall Conservation Area and is identified as making a positive contribution the character and appearance of the Conservation area. The site is also located within the Hampstead Neighbourhood Plan area.

1. **Proposal**
   1. A Certificate of Lawfulness is sought for the proposed amalgamation of the three flats into two flats. Internal reconfigurations include wall alterations to the lower ground floor to create a studio flat at the front of the lower ground floor. Access to this studio unit remains by way of steps down at the side of the building. Access to the ground and upper floors 5 bedrooms unit remains by way of the steps up to the upper ground floor. For this second larger dwelling there are internal staircase alterations and wall alterations to re-configure the rooms. The applicant seeks to confirm that the change of use would not constitute development and planning permission is not required under section 55 of the Town and Country Planning Act 1990. There would be no external changes to the appearance of the building as a result of the development.
2. **History**

None relevant

# Assessment

* 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 involves a material change in the use of the building and of each part of it which is so used”. However, the legislation does not comment on whether combining two dwellings into one would constitute development.
  2. The Borough’s Local Plan 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. The use of the site would remain in residential use following the conversion of three residential flats into two flats and 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.
  3. Relevant to this determination is the appeal case reference APP/X5210/X/17/3172201 (2 & 3 Wildwood Grove; Ref: 2016/5621/P) in Camden, which was allowed on 15/01/2018 for the conversion of two residential dwellings into one. In the assessment, the Inspector considered that the amalgamation of two dwellings into one would not be a material change of use and therefore would not constitute development.
  4. The use of the 5 bedroom, 10 person unit by unrelated residents would not constitute a use as a dwellinghouse. It would be a House in Multiple Occupation use which is not in the same class as a dwelling. It is sui-generis. As this would constitute a change of use which would require planning permission an informative is to be added to indicate that under this consent is granted on the basis that the 5 bedroom, 10 person unit is used by related persons and that the use of this unit by unrelated persons would represent a change of use which would require planning permission.

1. **Conclusion** 
   1. It is considered that the works do not constitute development as defined by section 55 of the Town & Country Planning Act 1990, and therefore would not require planning permission.
   2. Grant certificate of lawful development (proposed).