

Our Ref: 22364/TW/GM/cs  
Your Ref: PP-11676562  
Email: [twilliams@firstplan.co.uk](mailto:twilliams@firstplan.co.uk)  
Date: 24 November 2022

Planning Department  
London Borough of Camden  
Camden Town Hall Extension  
Argyle Street  
London  
WC1H 8EQ

Dear Sir/Madam,

**CERTIFICATE OF LAWFULNESS FOR A PROPOSED USE OR DEVELOPMENT (CLOPUD)  
AMALGAMATION OF TWO DWELLINGS INTO ONE DWELLING  
NOS. 8 AND 8B PRIMROSE GARDENS, LONDON, NW3 4TN**

We have been instructed by our client, Ms Lynn Payne, to submit the enclosed application for a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) in respect to the proposed amalgamation of two dwellings at Nos. 8 and 8B Primrose Gardens. No external alterations form part of the proposals.

Having regard to Section 55 of the Town and Country Planning Act 1990, the proposal does not constitute development and there is no material change of use. As such, planning permission is not required. This view is consistent with a number of recent Certificates granted by the London Borough of Camden Council, as well as a number of appeal decisions.

The amalgamation of the two flats will facilitate the creation of a high-quality family home, which would retain the current provision of residential floorspace at this accessible location.

The application has been submitted online via the Planning Portal (Ref: PP-11676562) and the requisite fee of £203.50 plus the £32.20 admin fee has been paid online.

The following documentation is submitted in support of the proposals:

- Completed Lawful Development Certificate (Proposed Use) Form;
- Completed CIL Form;
- Planning Statement (contained within this Letter);
- Appendices 1-7;
- Architectural drawings, prepared by Brod Wight Architects:
  - Site Location Plan (drawing no. 1129-OS);
  - Existing Site Plan (drawing no. 1129-S01-01);
  - Existing Lower Ground and Ground Floor Plans (drawing no. 1129-S01-02);
  - Existing First and Second Floor Plans (drawing no. 1129-S01-03);
  - Existing Third Floor and Roof Plans (drawing no. 1129-S01-04);
  - Existing Front and Rear Elevations (drawing no. 1129-S01-05);

- Existing Section A-A (drawing no. 1129-S01-06);
- Proposed Site Plan (drawing no. 1129-AP1-01);
- Proposed Lower Ground and Ground Floor Plans (drawing no. 1129-AP1-02);
- Proposed First and Second Floor Plans (drawing no. 1129-AP1-03);
- Proposed Third Floor and Roof Plans (drawing no. 1129-AP1-04);
- Proposed Front and Rear Elevations (drawing no. 1129-AP1-05) and
- Proposed Section A-A (drawing no. 1129-AP1-06).

## **Site Location and Description**

The application site comprises the upper ground, first, second and third floor levels of No.8 Primrose Gardens (currently identified as Nos. 8 and 8B respectively). The terraced Victorian property extends to three-storeys, plus accommodation within a mansard and at lower ground floor level and is situated on the north-eastern side of Primrose Gardens, close to the junction with Elizabeth Mews and England's Lane.

The host property is currently split into three separate units:

- No. 8: Upper ground floor flat;
- No 8A: Lower ground floor flat (this is not related to this application and will remain unaffected by the proposals); and
- No. 8B: First to third floor flat.

No. 8, the upper ground floor flat, is accessed via the original front door which leads to the main staircase. This unit comprises an entrance hall with 1no. bedroom, 1no. bathroom and an open plan kitchen and living area to the rear. The first floor flat, No. 8B, is also accessed via the central entrance, with internal stairs leading up to the first floor level. This unit comprises 4no. bedrooms, 2no. bathrooms with an open plan kitchen and living area at third floor level (within the mansard), with a rear balcony.

No. 8A is accessed via a separate external staircase at the front of the building within a lightwell, which leads down to the lower ground floor level. This flat has access on to the rear garden and does not form part of the proposals.

## **Relevant Planning History**

The conversion of the property into five self-contained flats was granted in 1961 (Ref: **G9/12/2/11157**). The rear conservatory at lower ground floor level was built out to pursuant to permission granted in 1991 (Ref: **9005421**).

An application to amalgamate the first floor flat and second and third floor flat was granted in 2012 under ref: **2012/4267/P**. Specifically, permission allowed for: *'Change of use of 1-bed flat at first floor level and 3-bed flat at second and third floor level maisonette into a single dwelling at these levels'* (Class C3). These works were implemented.

Most recently, proposals for the replacement and enlargement to the front and rear dormer windows at third floor level were initially refused by London Borough of Camden in May 2013 (Ref: **2013/1994/P**) but were subsequently granted at appeal in December 2013 (Ref: **APP/X5210/A/13/2201252**). These works were also implemented.

## **Description of the Proposals**

The proposals comprise the amalgamation of two residential dwellings (Class C3) into one single dwelling (Class C3) situated at upper ground, first, second and third floor levels. There are no alterations proposed to

the exterior of the property nor are the proposals related to the lower ground floor Flat (No. 8A). The proposed internal works are limited to the removal of the entrance doors at upper ground and first floor levels.

These works will create a single family sized residential home, accessed via the existing main entrance. The enclosed plans detail the internal works in full.

## **Legislative Background**

Section 55 of the Town and Country Planning Act 1990 as amended ('the Act') defines the meaning of 'development' as the "carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use of any buildings or other land". All 'development' requires planning permission.

As such, the sole matter for consideration in determining this CLOPUD is whether the amalgamation of two dwellings into one dwelling constitutes development.

The application should be determined on the basis of planning law and material matters of fact. Planning policy is not a relevant consideration for this application.

The site lies within the Belsize Park Conservation Area. The property is not statutory listed but is noted as making a positive contribution to the Conservation Area alongside Nos. 6-48. The site falls within Flood Zone 1 and therefore is not at risk of flooding.

## **Assessment of Lawfulness**

Section 55 of Town and Country Planning Act 1990 states that:

***"The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—***

***(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—***

***(i)affect only the interior of the building, or***

***ii)do not materially affect the external appearance of the building...."***

The proposals involve internal works only, with no alterations proposed to the exterior of the property. Accordingly, there would be no harm, or indeed any change, to the character of the building, the Belsize Park Conservation Area or the surrounding residential area.

Section 55, Part 3A states goes onto state 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, it does not state anything with regards to the other way around, i.e. two or more dwelling houses to be used as a single dwelling house.

The amalgamation of two dwellings into a single dwelling does not result in a material change of use given that the Class C3 use will be retained and no loss of floorspace will occur. The proposal is therefore lawful on this basis.

This assessment is consistent with Camden Council's approval of a number of recent Certificates, as detailed below.

### **Relevant Decisions in Camden**

A Certificate was approved at Nos. 17B and 17C Langland Gardens, London for: *'Amalgamation of two flats at ground and first floor into one single dwelling (Class C3) with no external alterations'* on 5 August 2021, ref: **2021/2884/P**. The Decision Notice and Officer's Report are enclosed at Appendix 1.

The corresponding Officer's Report also affirms that:

*"A change of use that gives rise to planning considerations such as to the loss of a particular type of residential accommodation, is a relevant factor to be taken into account in considering whether a change of use is material. Camden 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 involve the net 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 two residential flats into a single dwelling 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.*

*With regards to judgement of whether the development is material when compared with the development plan, with regard to Camden Local Plan policy H3 (Protecting existing homes), the proposal would result in the net loss of no more than one residential unit and would not result in the loss of residential floorspace. The proposed development as presented would therefore comply with policy H3 of the Camden Local Plan. This is confirmed by the supporting text to policy H3 (paragraph 3.75)."*

No. 13 Upper Park Road gained a Certificate in July 2022 for internal alterations and amalgamation from two flats into one (Ref: **2022/1828/P**). The Decision Notice and Officer's Report are enclosed at Appendix 2. The report states that:

*"There is case law to prove that the conversion of two flats into one does not constitute a material change of use, vis: 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".*

A Certificate was approved in July 2022 for amalgamation at No. 15 Lady Margaret Road (Ref: **2022/1424/P**). The Decision Notice and Officer's Report are enclosed at Appendix 3. The Officer's Report states that:

*"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 dwellinghouse, and is not considered to be a material change of use. The deintensification from two to one would*

*have no material impact of neighbour amenity or infrastructure. 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.”*

Other similar applications for Certificates have been approved including at Flats 23 and 24 at 55-57 Holmes Road (ref: **2022/2115/P**) and at 20 Inglewood Road (ref: **2022/1369/P**).

Given the above, it is therefore clear that London Borough of Camden are of the view that the amalgamation of two residential units into a single, family dwelling house, does not constitute development.

## **Relevant Appeal Decisions**

In January 2018, an Inspector allowed an appeal for a Certificate at Nos. 2 and 3 Wildford Grove for the conversion of two residential dwellings into one (Appeal Ref: **APP/X5210/X/17/3172201**). In allowing the appeal, the Inspector stated that: *‘In my view the amalgamation of Nos. 2 and 3 Wildwood Grove has not led to a material change of use. As such it is not development’*. The Appeal Decision is attached at Appendix 4.

In February 2016, an Inspector allowed an appeal at No. 15 Ifield Road, Royal Borough of Kensington and Chelsea Council for a Certificate for the amalgamation of three apartments into one dwelling house (appeal ref: **APP/K5600/X/15/3132022**). In allowing the appeal, the Inspector concluded at paragraph 18: *‘...the proposed use would not result in a material change in the character of property or the residential area and on this basis would not amount to a material change of use’*. The Appeal Decision is enclosed at Appendix 5.

In light of the above, it is clear that the Inspectorate agrees with the London Borough of Camden’s view that the amalgamation of two residential units into a single, family dwelling house does not constitute development.

## **Other Matters**

Despite the fact that the assessment of planning policy is not considered relevant to the determination of this application, it must be noted that the scheme would retain all the existing Class C3 residential floorspace and make a small, yet valuable contribution to improving Camden’s family housing stock.

Moreover, although Policy H3 of Camden’s Local Plan (2017) seeks to resist development that would involve the net loss of two or more homes, the proposals would only result in the net loss of one residential unit.

Whilst the Council’s historical planning records (as summarised at page 2 of this letter) indicate that there has been a previous amalgamation of two flats at the Site (ref: 2012/4267/P), this was consented over 10 years and as such, it should be treated as separate planning chapter. Discounting amalgamations undertaken more than 10 years ago in this respect is demonstrated in the precedents outlined below:

- A CLOPUD was issued at Nos. 28 and 29 Paramount Court for the amalgamation of 2no. flats into a single residential unit in April 2022 (Ref: **2021/6264/P**). The Decision Notice and Officer’s Report are enclosed at Appendix 6. Of particular note, the report states:

***“In 2012 planning permission was granted to combine two residential units at the property [Ref: 2012/0716/P]. However, given the time period between the applications of over 10 years and that the total number of units going from 121 to 119, the current proposal is not considered to have any material planning impact stemming from the change. It will not 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 appearance***

*or the building. The site would remain in residential use following the conversion of two residential flats into a single dwellinghouse and is not considered to be a material change of use. The de-intensification from two to one would have no material impact of neighbour amenity or infrastructure. 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”. (our emphasis).*

- A CLOPUD was issued at No. 13 Steele Road for the amalgamation of ground and first floor maisonette with upper level maisonette in April 2020 ref: **2020/1441/P**. The property previously gained permission in January 2020 for the conversion of 1no. 3-bed flat over ground and first floor with 1no. 2-bed flat over second and third floor (Ref: **2019/5200/P**). The site also gained permission in 2005 for conversion of ground and first floors into 1 maisonette ref: **2005/0370/P**, also conversion of flats 2 and 3 was granted in July 2004 ref: **2004/2492/P**. The Decision Notice and Officer’s Report for the most recent permission is attached at Appendix 7; of significance, the Officer Report states:

*“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 two residential flats into a single dwelling, 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.”*

It is therefore clear that the London Borough of Camden do not take into account amalgamations which have been undertaken more than 10 years ago, when considering cumulative amalgamations under Policy H3.

Following a consistent approach, the current proposal will result in the loss of 1no. residential unit. Accordingly, whilst the assessment of planning policy is not considered relevant to the determination of this application, the proposal would still be compliant with Policy H3 and would not materially impact on the Borough’s housing stock or on the Council’s ability to meet housing targets.

Indeed, Paragraph 3.75 of the Local Plan sets out that:

*“Net loss of one home is acceptable when two dwellings are being combined into a single dwelling. Such developments can help families to deal with overcrowding, to grow without moving home, or to care for an elderly relative. Within a block of flats or apartments, such a change may not constitute development”.*

Accordingly, the new family-sized dwelling, which would be dual-aspect and provide a high standard of accommodation at this sought after location in Camden, should be welcomed as it will meet an identified need for family housing. Moreover, the living accommodation proposed will meet London Plan standards for new dwellings in terms of internal space standards and, importantly, the internal works will have no impact on the surrounding Belsize Park Conservation Area.

## **Conclusions**

In the light of the reasons outlined within this Statement, which are sufficiently evidenced and supported by the recent appended decisions, the proposed amalgamation of the two dwellings into one single dwelling does not constitute development and therefore can be carried out without the requirement to apply for planning permission.

As such, it is considered that the CLOPUD application be approved, and we respectfully request that the Certificate is issued without delay.

We trust the enclosed information is sufficient to register and validate the application. Should you require any further information, please do not hesitate to get in contact.

Yours faithfully,

A handwritten signature in black ink that reads "firstplan". The signature is written in a cursive, lowercase style.

TIM WILLIAMS  
Director

Enc.

# Appendix 1



Application ref: 2021/2884/P  
Contact: Leela Muthoora  
Tel: 020 7974 2506  
Email: [Leela.Muthoora@camden.gov.uk](mailto:Leela.Muthoora@camden.gov.uk)  
Date: 5 August 2021

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Firstplan  
Firstplan  
Broadwall House  
21 Broadwall  
London  
SE1 9PL

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Amalgamation of two flats at ground and first floor into one single dwelling (Class C3) with no external alterations.

Drawing Nos: Site Location Plan, 1116-AP02A, 1116-AP03A, 1116-AP04.

Second Schedule:

**17B and 17C Langland Gardens**  
**London**  
**NW3 6QE**

Reason for the Decision:

- 1 The amalgamation of Flat B at ground floor and Flat C at first floor, are not considered to fall within the "meaning of development" and therefore planning permission is not required under section 55 of the Town and Country Planning Act 1990.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is written over a light grey rectangular background.

Daniel Pope  
Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Informative(s):

- 1 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ.
- 2 The Council will resist the incremental loss of homes through subsequent applications to combine further homes within the same building or site. Any further amalgamation of residential units will result in a material change of use and require planning permission from The Council.
- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 4 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 5 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.

<b>LDC (Proposed) Report</b>	<b>Application number</b>	2021/2884/P
<b>Officer</b>	<b>Expiry date</b>	
Leela Muthoora	09/08/2021	
<b>Application Address</b>	<b>Authorised Officer Signature</b>	
17B and 17C Langland Gardens London NW3 6QE		
<b>Conservation Area</b>	<b>Article 4</b>	
Redington Frogna	Basements	
<b>Proposal</b>		
Amalgamation of two flats at ground and first floor into one single dwelling (Class C3) with no external alterations.		
<b>Recommendation:</b>	Grant Lawful Development Certificate	

#### Assessment:

#### 1. Site Description

1.1 The site is a four-storey property located on the western side of Langland Gardens close to the junction with Lindfield Gardens. The property was sub-divided into four flats following the granting of permissions listed in section 3. The building is identified as making a positive contribution to the character and appearance of the Redington Frogna Conservation Area.

#### 2. Proposal

2.1 A Certificate of Lawfulness is sought for the proposed amalgamation of two flats into one dwelling. The flats to be amalgamated are Flat B at ground floor level and Flat C at first floor level. 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 as a result of the development.

#### 3 Site History

Application Ref. No.	Development Description	Decision	Date of Decision
TPD684/28219	Outline application for the conversion of the ground floor and two floors over into three self-contained flats.	Granted	13/04/1962
TPD790/361	Conversion into 3 self-contained flats.	Granted	15/08/1962
TPD1012/648	Conversion of the lower ground floor into a self-contained flat. Granted Conditional permission	Granted	20/03/1963
TP/103509/2029	The enclosing of the front porch in timber frames and glass.	Granted	06/03/1964
CTP/F5/9/17/6478	Erection of conservatory on part of rear balcony at first floor level.	Granted	05/03/1969
2011/4221/P	Replacement of existing balustrade with new painted metal balustrade, insertion of new patio door and the replacement of the existing door to terrace to rear of first floor flat (Class C3).	Granted	13/10/2011

#### 4. Assessment

4.1 The Town & Country Planning Act 1990, Section 55 (3)(a) 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.

4.2 A change of use that gives rise to planning considerations such as to the loss of a particular type of residential accommodation, is a relevant factor to be taken into account in considering whether a change of use is material. Camden 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 involve the net 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 two residential flats into a single dwelling 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.

4.3 With regards to judgement of whether the development is material when compared with the development plan, with regard to Camden Local Plan policy H3 (Protecting existing homes), the proposal would result in the net loss of no more than one residential unit and would not result in the loss of residential floorspace. The proposed development as presented would therefore comply with policy H3 of the Camden Local Plan. This is confirmed by the supporting text to policy H3 (paragraph 3.75).

4.4 There are no external alterations proposed in order to carry out the development.

#### 5. Conclusion

The proposed amalgamation of two flats into a larger self-contained unit would not constitute a material change, and no external alterations are proposed. This view is consistent with appeal case law and previous decisions issued. As a result, it is considered that the works described do not constitute development that requires planning permission, as defined by Section 55 of the Town & Country Planning Act 1990 (as amended).

6. Recommendation: Grant lawful development certificate.

## Appendix 2

Application ref: 2022/1828/P  
Contact: Adam Greenhalgh  
Tel: 020 7974 6341  
Email: [Adam.Greenhalgh@camden.gov.uk](mailto:Adam.Greenhalgh@camden.gov.uk)  
Date: 4 July 2022

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Stiff and Trevillion  
16, Woodfield Road  
London  
W9 2BE

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule: Internal alterations and amalgamation from two flats into one.

Drawing Nos: Site location plan (4731-ST-01-001), Existing ground & first floor flats - floor plans (4731-EX-02-002), Proposed floor plans (4731-ST-02-002)

Second Schedule:  
**13 Upper Park Road**  
**London**  
**Camden**  
**NW3 2UN**

Reason for the Decision:

- 1 The works are not considered to fall within the "meaning of development" requiring planning permission as defined by the Town and Country Planning Act 1990.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and

emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 4 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer



## Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2022/1828/P
<b>Officer</b>		<b>Expiry date</b>	
Adam Greenhalgh		23/06/2022	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
13 Upper Park Road London Camden NW3 2UN			
<b>Conservation Area</b>		<b>Article 4</b>	
N/A		Basements	
<b>Proposal</b>			
Internal alterations and amalgamation from two flats into one.			
<b>Recommendation:</b>		<b>Grant Lawful Development Certificate</b>	

### **Site Description**

The application relates to the existing ground and first floor flats within the 4 storey semi-detached property (lower ground, ground, 1<sup>st</sup> and 2<sup>nd</sup> floors). The building is not listed. It is located in the Parkhill Conservation area. There is a front entrance door with a door into the ground floor flat and stairs up to the first floor flat.

### **Proposal**

The proposed works comprise internal alterations, principally to enable the formation of a ground and first floor three bedroom flat with an internal staircase. On the ground floor there would be: chimney flue removal, new staircase, new internal opening, replacement internal single door with double door. On the first floor there would be infilling of the entrance door and changes to internal walls and the formation of the staircase opening.

### **Assessment**

- i. **Amalgamation of two flats into one:**

Under S.22 of the Town and Country Planning Act development is defined as:

‘the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land’

It follows that if no material change of use takes place, then no development has occurred.

There is case law to prove that the conversion of two flats into one does not constitute a material change of use, vis: 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.

The following applications involving a change of use from two flats to one (in Camden) have also been considered to not constitute a material change of use and therefore to be lawful, because they do not involve development:

**2021/0585/P – 46 Gayton Road, NW3 1TU** Amalgamation of 2 flats into a single dwellinghouse (Class C3). **Certificate of Lawfulness Granted 31/03/2021**

**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**

**2019/4264/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 Frogna 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**

## ii. Internal alterations

Also, under S.55 of the Act 'building operations or other operations which do not materially affect the external appearance of a building' are not development.

The building operations/internal works would not materially affect the external appearance of the building. These also, would not therefore be development.

## **Conclusion**

It is considered that the works does not constitute development as defined under the Town & Country Planning Act 1990, and therefore would not require planning permission. The Certificate of Lawfulness should therefore be granted.

## Appendix 3

Application ref: 2022/1424/P  
Contact: Amy Ly  
Tel: 020 7974 8141  
Email: Amy.Ly@camden.gov.uk  
Date: 20 July 2022

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Architecture for London  
3-5  
Bleeding Heart Yard  
London  
EC1N 8SJ  
undefined

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Certificate of lawfulness (proposed) for amalgamation of garden level flat and 1st - 3rd floors flat into one single dwellinghouse.

Drawing Nos: OS000 rev- OS MAP & SITE LOCATION PLAN; EX000 rev- BASEMENT & GROUND FLOOR PLAN; EX001 rev- FIRST FLOOR PLAN; EX002 rev- SECOND FLOOR PLAN; EX003 rev- THIRD FLOOR PLAN; EX004 rev- ROOF PLAN; EX010 rev- SECTION AA; EX011 rev- SECTION BB; EX012 rev- SECTION CC; EX020 rev- FRONT ELEVATION; EX021 rev- REAR ELEVATION; EX022 rev- SIDE ELEVATION; PL100 rev- GROUND FLOOR PLAN; PL101 rev- FIRST FLOOR PLAN; PL102 rev- SECOND FLOOR PLAN; PL103 rev- THIRD FLOOR PLAN; PL104 rev- ROOF PLAN; PL110 rev- SECTION AA; PL111 rev- SECTION BB; PL112 rev- SECTION CC; PL120 rev- FRONT ELEVATION; PL121 rev- REAR ELEVATION; PL122 rev- SIDE ELEVATION; Supporting Statement

Second Schedule:

**15 Lady Margaret Road**  
**London**  
**Camden**  
**NW5 2NG**

Reason for the Decision:

- 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.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2022/1424/P
<b>Officer</b>		<b>Expiry date</b>	
Amy Ly		30/05/2022	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
15 Flat A Lady Margaret Road London NW5 2NG			
<b>Conservation Area</b>		<b>Article 4</b>	
Kentish Town		Basements	
<b>Proposal</b>			
Certificate of lawfulness (proposed) for amalgamation of garden level flat and 1st - 3rd floors flat into one single dwellinghouse.			
<b>Recommendation:</b>		Grant Lawful Development Certificate	

## 1.0 Site Description

- 1.1** The host property relates to a four-storey end of terrace building on the south western side of Lady Margaret Road. It is located within the Kentish Town Conservation Area and the Kentish Town Neighbourhood Plan Area.
- 1.2** The property has been divided into two units- a one bedroom flat at ground floor level and a five bedroom flat at first, second and third floor levels. The property has previously been in use as a single family dwelling, it was converted to two flats following the approval of application reference: 34347 in 1982 (see planning history).

## 2.0 Proposal

- 2.1** A Certificate of Lawfulness is sought for the proposed amalgamation of 2 flats into 1 dwellinghouse.
- 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 Relevant History

- 3.1** At the application site:

**34347** - The change of use to two self-contained dwelling units including works of conversion, the erection of an additional storey at the rear and the provision of new front and rear dormer windows. **Historic planning permission granted 25/08/1982**

**2021/4035/P** - Erection of two front dormer windows and a rear dormer; installation of rear rooflight; raising of rear outrigger parapet by 300mm. **Full planning permission granted**



16/11/2021

3.2 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 31/03/2021**

**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 Frogal 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-**

## Assessment

**4.0** 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”. However, the legislation does not comment on whether combining two dwellings into one would constitute development. In this case it is 2 units into 1 in this property.

**4.1** 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 dwellinghouse, and is not considered to be a material change of use. The de-intensification from two to one would have no material impact of neighbour amenity or infrastructure. 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.

**4.2** With regards to judgement of whether the development is material when compared with the development plan under Camden Local Plan policies H1 and H3, the proposal would result in the net loss of no more than one residential unit and would not result in the loss of residential floorspace. The proposed development as presented would therefore comply with policy H3 of the Camden Local Plan. This is confirmed by the supporting text to policy H3 (paragraph 3.75).

**4.3** The proposal is not contrary to the Policy D3 of the Kentish Town Neighbourhood Plan.

**4.4** 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.

## 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

## Appendix 4



## Appeal Decision

Site visit made on 9 January 2018

by **Simon Hand MA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 January 2018

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### Appeal Ref: **APP/X5210/X/17/3172201** **3 Wildwood Grove, London, NW3 7HU**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Warren Evans against the decision of the Council of the London Borough of Camden.
  - The application Ref 2016/5621/P, dated 14 October 2016, was refused by notice dated 11 February 2017.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is use of 2 and 3 Wildwood Grove as one single dwellinghouse.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

### Reasons

2. The appellant states that in 2009 works were completed to amalgamate Nos 2 and 3 Wildwood Grove into a single dwelling. The agent's application was concerned solely with the legal question of whether the amalgamation of 2 dwellings into 1 was development or not. I do not need to rehearse most of the arguments here as the Council accept that in this case there is no policy impediment to the amalgamation. However they say it would still be a material change of use due to the under occupation of the dwelling which would materially alter the character of the way it is occupied. Regardless of the outcome of this argument the actual reason for the refusal of the application was that there was no evidence the use had been undertaken continuously for 4 years or more.
3. I accept the Council's argument that a reduction in levels of occupation could lead to the finding that there had been a material change of use, regardless of whether such a change was harmful or not, as planning merits play no part in the determination of an application for a lawful development certificate. However the changes associated with the amalgamation of the two dwellings into one would have to be such that there was a material difference in the way the property was occupied, and given that the nature of the use remains residential, such a change would have to be quite significant.

4. The Council argue that in 2001, 47% of households occupying a house with 5 or more bedrooms were one or two person households. This percentage rose to 54% if the households were owner occupiers. They say it is likely therefore the house would have been occupied by a household of one or two persons and so was under occupied. This would be perceptible and significant enough to alter the character of the way in which it was occupied.
5. I have a number of problems with this approach. Rather than being "likely", the statistics suggest it is almost 50/50 whether or not the house was or would be occupied by a one or two person family. Even if it were, without figures for the likely occupation of smaller dwellings it is difficult to make any meaningful comparisons with the before amalgamation situation. Two one-person households in the original two dwellings would be the same as one two-person household in the amalgamated dwelling. In any event, I find it highly unlikely that the level of occupation would be so different as to alter the character of occupation to such an extent that it would be reasonable to conclude there had been a material change of use. The Council have not explained what significant changes are likely to be perceptible due to under-occupation and there is no evidence such changes have come about. In my view the amalgamation of Nos 2 and 3 Wildwood Grove has not led to a material change of use. As such it is not development.
6. On my site visit it was evident there had been a further change, as the downstairs of No 2 was being used by the appellant's mother and the downstairs interconnecting doorway had been blocked up. The upstairs was still open between the two houses and clearly used as a single dwelling; it was from here that access to the mother's downstairs bedroom was made. However, as I do not consider the amalgamation of two into one was development in the first place, and these changes seemed to have taken place after the date of the application, I can ignore them. At the date of the application there had been no material change of use.
7. Having found the amalgamation of the dwellings is not development there is no need to consider whether or not the resultant single dwelling has been occupied continuously for 4 years or more. I shall allow the appeal and issue a certificate explaining that the use of the property as a single dwellinghouse was lawful at the date of the application.

*Simon Hand*

Inspector

## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 14 October 2016 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason: the amalgamation of Nos 2 and 3 Wildwood Grove into a single dwellinghouse did not amount to a material change of use and so was not development that required planning permission.

Signed

*Simon Hand*

Inspector

Date: 15 January 2018

Reference: APP/X5210/X/17/3172201

### ***First Schedule***

Use of 2 and 3 Wildwood Grove as one single dwellinghouse

### ***Second Schedule***

Land at 3 Wildwood Grove, London, NW3 7HU

## NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



## Plan

This is the plan referred to in the Lawful Development Certificate dated: 15 January 2018

by **Simon Hand MA**

**Land at: 3 Wildwood Grove, London, NW3 7HU**

**Reference: APP/X5210/X/17/3172201**

Scale: not to scale

### Location Plan near NW3 7HU





## Appendix 5



## Appeal Decision

Site visit made on 26 January 2016

**by Mr N P Freeman BA(Hons) DipTP MRTPI DMS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 February 2016**

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**Appeal Ref: APP/K5600/X/15/3132022**

**15 Ifield Road, London, SW10 9AZ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Finborough Investments Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
- The application Ref. CL/14/08833, dated 18 December 2014, was refused by notice dated 2 March 2015.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a LDC is sought is the amalgamation of 3 apartments into one dwellinghouse.

**Summary of Decision: The appeal is allowed and a LDC is issued in the terms set out below in the Formal Decision**

---

### Reasons

1. It is common ground that the property in question is in use as 3 self-contained apartments comprising a maisonette on the basement and ground floors and flats on the first and second floors. Plans showing the layout have been provided and I was able to view inside the first floor flat. I take this to be the lawful use of the property as there is nothing before me to suggest otherwise. Planning permission for the maisonette was granted on 15 January 1962.
2. The supporting documentation explains that the intention is to convert the property back to its original use as a single dwellinghouse on all four floors but that no external works are proposed. The single issue to consider therefore is whether this would amount to a material change of use that requires planning permission. If the conclusion is that it does then the change would not be lawful. If it does not then the LDC should be issued.
3. The law on this matter has been the subject of court decisions. The leading case to which both parties have referred is *Richmond-upon-Thames LB v SSETR [2001] JPL 84*. In that case it was held that an Inspector had erred in disregarding the loss of 7 flats in a proposal to convert a property into a single dwellinghouse. The Inspector had found that no material change of use had occurred but the court concluded that the extent to which a particular use fulfils a legitimate or recognised planning purpose is relevant in deciding whether there has been a material change of use. The court also rejected the notion that both uses fell within Class C3 (dwellinghouses) as the planning unit before was not a dwellinghouse, but more than one.

4. The parties are in agreement that s55(1) of the 1990 Act, as amended, defines the meaning of development which includes the making of a material change in the use of any buildings. It is also agreed that whilst s55(3)(a) of the same indicates that the use of two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use of the building, the Act is silent on the reverse situation.
5. Following court authority, including *Richmond* and the earlier case of *Panayi v SSE [1985] 50 PCR 109*, the recognised legal position is that such a change can amount to a material change of use and that in each case it is a matter of fact and degree. In *Panayi* it was indicated in the judgment that relevant factors could include important planning considerations such as the effect on the residential character of the area. These findings informed the decision of the District Judge (Christopher Lockhart-Mummery QC) who decided the *Richmond* case which gave rise to the point that consideration in each case of this type should be given to whether the present use fulfils a legitimate or recognised planning purpose, which engages policy considerations.
6. It is however useful to note what the same judge said when providing advice on another similar appeal case in the Council's jurisdiction, which is quoted in the appellant's agent's statement. I appreciate this is only his opinion but as he was the one who decided the *Richmond* case it warrants attention. He commented on what his judgment did not decide. Firstly, it did not decide that the inclusion of a policy factor meant that there had to be, or indeed was, a material change of use in that case or any other. Secondly, it did not decide that a change of use would be a material one where the only factor arising concerned policy. He adds that such an argument was not even raised and that he would have "given it short shrift if it had been". He also refers back to *Panayi* pointing out that the first factor regarded as relevant in that case was the effect on the character of the area.
7. With this legal background in mind I will firstly consider the likely effect of the change on the character of the area. I will then come on to the Council's arguments regarding housing policy, including what they describe as a recent change in the emphasis or interpretation of policy concerning the conversion of flats back into single dwellinghouses since August 2014.
8. The character of this part of Ifield Road appears to be primarily if not wholly residential and this is not disputed. I do not have details of the exact make-up of the residential uses but from my own observations it is apparent that some properties, which would have originally been 4 storey houses, have multiple occupiers, probably as self-contained units but possibly with some bedsits and houses in multiple occupation. Others appear to remain as single dwellinghouses and some may have been converted back from flats, apartments or bedsits into single dwellinghouses. A case in point is the neighbouring building, 17 Ifield Road, which benefits from planning permission dated 14 June 2012, for the conversion from two maisonettes to a single 4 storey dwelling. The Council contend that this permission was granted prior to the recent change in policy stance on such conversions but it is interesting to note that the case officer's report commented: "...in any case, it should be noted that the amalgamation of two flats would not normally be considered development". Whilst this may only be an observation it was made well after the judgment in *Richmond* was reached and presumably was the Council's position at that time.

9. The first question to address is whether the change from 3 apartments to one dwellinghouse in this location would lead to a material change in the character of this residential street. Given my observations and from the information before me I consider that the area has a mixed residential character comprising a variety of types of housing accommodation. I do not consider that one type predominates and it is evident that single family dwellinghouses are a significant and historic part of that character – or to put it another way - a contributory factor to the inherent nature of the residential area. For this reason I do not consider that the change proposed would materially alter this character. Indeed it would be consistent with the prevailing character of a mixture of types of residential accommodation.
10. In terms of the building itself, as there would be no physical alterations to the exterior of the building its appearance would not change. In terms of use it would retain a residential character. There may be fewer daily movements from the property as a result but this cannot be said with any certainty as a large family occupying the whole building could generate more comings and goings than the present occupation as 3 separate apartments. That said I would not expect the difference to be so significant as to constitute a change in the character of the use of the building or the area.
11. I have gone on to consider the Council's arguments concerning planning policy. I can appreciate their concerns about housing provision in general and the need to achieve a balance in type and tenure, to meet increased and more ambitious housing targets and to monitor the effect of conversions and amalgamation of flats into one dwelling in terms of maintaining housing stock to meet needs and demand. However, even if policy considerations have a bearing on this case – and the legal authorities above suggest they could do although they are not likely to be the sole determinant – then it is the adopted policies that must take precedence. I do not consider it is necessary to rehearse the reasons I come to that conclusion in detail. Suffice to say adopted policies have been the subject of the full rigour on the development plan process; they have had to be the subject of consultation at a number of stages in the plan production process; they will have been part of a plan which was the subject of a formal examination where the whole gamut of housing issues would almost certainly have been considered.
12. With this background in mind I consider the most relevant adopted policy applying to this specific part of London is Policy CH2 of the 2010 Core Strategy. I have not been provided with a full copy of the wording but the Council say that it states they "*will resist development which results in the net loss of five or more residential units*". The supporting text (para. 35.3.18) explains "*In order to limit the loss of residential units whilst allowing some flexibility in terms of the creation of larger residential units, a policy has been developed which resists proposals which result in the net loss of five or more residential units*". The Council argue that the policy is restrictive and it does not automatically allow or justify a loss of less than five units. This may be so as there will often be other material considerations but it clearly sets down a benchmark to be applied. If it were to be less than quite obviously the policy would say so. It does not even say, as far as I am aware, that the loss of less than five will be judged on its merits. I do not consider that the Council are in a position to go behind this policy and try to make it mean something other than what it actually states. The only way to do so would be to withdraw or modify the policy through the required statutory process.

13. Taken at face value therefore, there is no conflict with this policy whatsoever. Thus even if policy is a determining factor, but not the sole one as court authority would suggest, there is no basis for concluding that a material change of use would occur having regard to the wording of Policy CH2. I appreciate that the Council seem to be arguing that it is out-of-date and needs to be replaced but they have not done so. Indeed I have not been provided with any documentation which indicates that an alternative draft policy has been published.
14. What the Council do say can be taken from paragraph 1.11 of their statement which I quote in full:
- “To address this issue (*the loss of smaller units of accommodation*), in August 2014 the Council changed its interpretation as to how much amalgamation could occur without planning permission being required. It is important to note that this was not a change in development plan policy (i.e. in the Core Strategy / Local Plan) and as such no consultation/examination was necessary, or indeed appropriate. The Council takes the view that any amalgamation which includes the loss of a unit will be development which requires planning permission. This reflects increasing housing targets and the impact that amalgamation is having upon the progress on achieving these”.
15. This blanket approach is being applied based on an interpretation which fails to take account of the principal test established through the courts that is the effect on the character of the area. Such an approach flies in the face of court authority and suggests that general concerns about housing provision and the loss of small units, not even supported by an adopted local plan policy, should trump any material consideration of the impact on the character of a specific area. I cannot accept that this is correct approach in law and it seems to be a position which the judge in *Richmond* made clear would not form a sound basis for resisting the issuing of a LDC, if that was the only argument.
16. The appellant’s agent draws my attention to two other properties where LDCs were issued by the Council for the amalgamation of flats into single dwellings in 2011 and June 2014<sup>1</sup>. The Council’s response is that these were “*determined prior to the change in the Council’s interpretation of the legislation and are not pertinent to the consideration of this appeal*”. I disagree as these decisions are clearly of some bearing given their relatively recent determination and the Council have not explained on what basis they have chosen to arrive at a different interpretation of the legislation to the one that presumably informed these earlier decisions. It is not suggested that a new court authority has led to this change of stance and so the principles set out above which flow from *Richmond* and *Panayi* would still apply. That being so the present position they are adopting appears to lack a sound legal foundation and for that reason I do not find it persuasive in this case.
17. I have noted the general arguments the Council have supplied regarding housing provision and the net loss in units that are said to have occurred through amalgamations of smaller units between 2010-2014. I am also mindful of the Government policy in the National Planning Policy Framework (NPPF) to ensure the delivery of housing to meet identified need and the similar thrust of housing policies in the London Plan 2015 as regards the capital.

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<sup>1</sup> Ref. CL/11/03277 – 66 Cathcart Road – 3 dwgs into one; Ref. CL/14/02329 – 34 Lansdowne Crescent – 2 dwgs into one

Nevertheless, these general policies are aimed at striking a balance to meet all housing needs in terms of size, type and tenure. It is not just a question of total numbers. The only way to properly examine the issues of housing need and supply at the local level is through a systematic analysis informing the Core Strategy and any supporting local plan in Kensington and Chelsea. That is a rigorous evidence based approach which demonstrates where the needs exist and what policies and strategies are required to address these needs. This may lead to the modification or replacement of policy CH2 but at present it remains the policy to follow having regard to the requirements of s38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 154 of the NPPF.

18. Bringing these findings together I am satisfied that the proposed use would not result in a material change in the character of property or the residential area and on this basis would not amount to a material change of use. I have also considered whether the present use fulfils a legitimate or recognised planning purpose, which engages policy considerations, but it has not been demonstrated that the proposal would clearly conflict with any relevant adopted development plan policies. I have taken account of the wider aspirations of the Council to be more restrictive on what may be permitted by way of the amalgamation of apartments into single dwellinghouses and to take a harder line on what may be accepted in law. However, an LDC appeal is not a legitimate method for bringing about planning policy changes and the Council's present blanket interpretation of what amounts to a material change of use fails to take account of court authority requiring each case to be considered as a matter of fact and degree having regard primarily to the impact on the character of an area.
19. For these reasons, as expanded upon above, I conclude, on the evidence available, that the Council's refusal to grant a LDC in respect of the amalgamation of 3 apartments into one dwellinghouse was not well-founded and the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

### **Formal Decision**

20. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the extent of the proposed use which is considered to be lawful.

*N P Freeman*

INSPECTOR



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## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2010: ARTICLE 35

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**IT IS HEREBY CERTIFIED** that on 18 December 2014 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the Plan A attached to this certificate, would have been lawful within the meaning of the relevant section of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use does not amount to a material change of use requiring planning permission.

Signed:

*N P Freeman*

Mr N P Freeman  
Inspector

Date: 24.02.2016

Reference: APP/K5600/X/15/3132022

***First Schedule:***

The amalgamation of 3 apartments into one dwellinghouse.

***Second Schedule:***

15 Ifield Road, London, SW10 9AZ

NOTES:

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on Plan A. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.





## Plan A

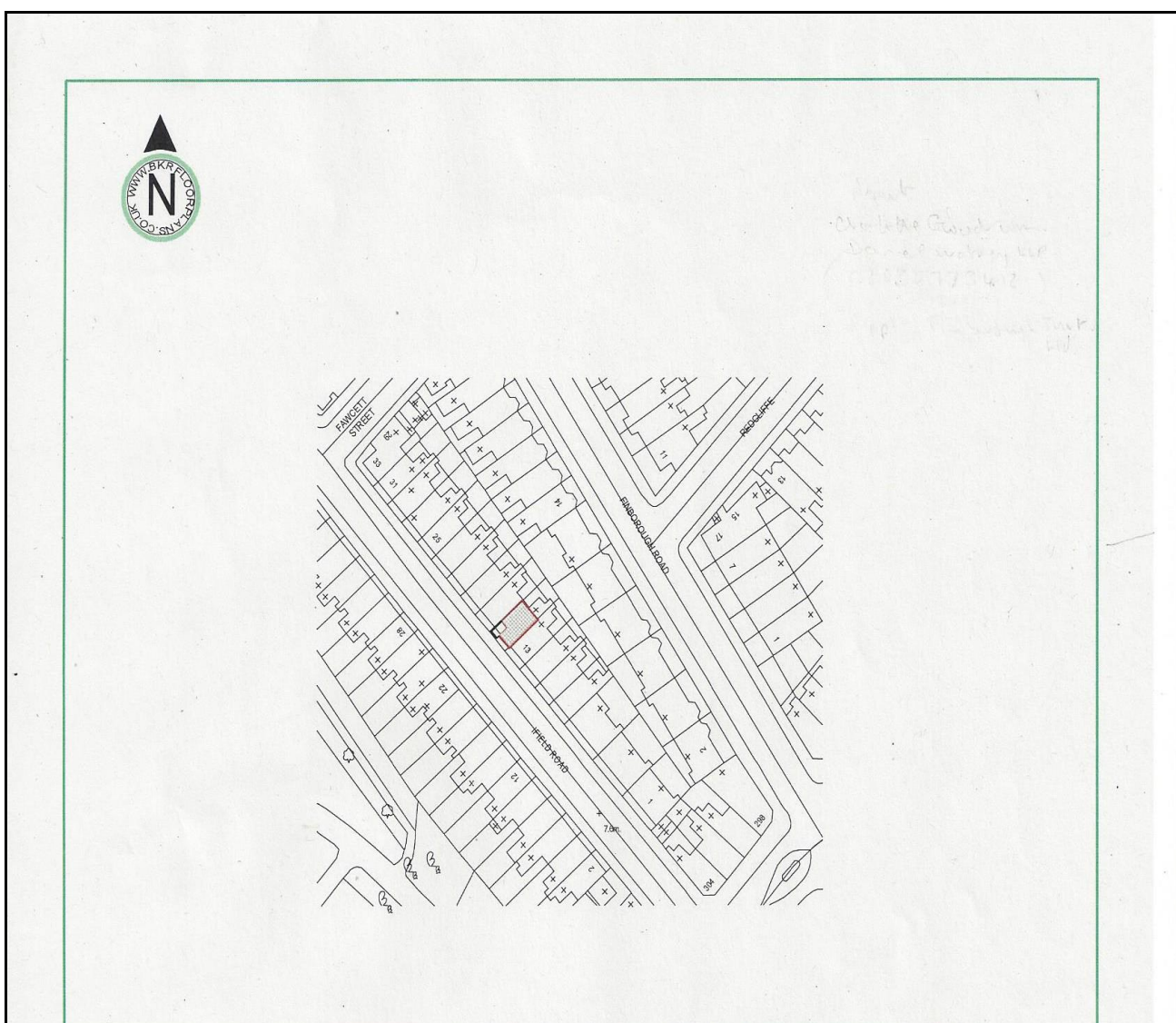
This is the plan referred to in the Lawful Development Certificate dated: 24.02.2016

by **N P Freeman BA(Hons) DipTP MRTPI DMS**

**Land at: 15 Ifield Road, London, SW10 9AZ**

**Reference: APP/K5600/X/15/3132022**

**Do not scale – identification only**



## Appendix 6

Application ref: 2021/6264/P  
Contact: Fast Track JL  
Email: [planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
Date: 4 April 2022

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

WEA Planning  
20-22 Wenlock Road  
London  
N1 7GU  
United Kingdom

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Amalgamation of 2 flats into a single residential unit (Class C3).

Drawing Nos: TQRQM21357152144552; PC001-A; PC002; PC003; Planning Statement - WEA Planning Ref: 2020\_52 .

Second Schedule:

**Flats 28 & 29**  
**Paramount Court**  
**University Street**  
**London**  
**WC1E 6JP**

Reason for the Decision:

- 1 The works do not constitute a material change of use and therefore do not fall within the meaning of "development" requiring planning permission as defined by the Town and Country Planning Act 1990.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2021/6264/P
<b>Officer</b>		<b>Expiry date</b>	
Fast Track JL		13/05/2022	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
Flats 28 & 29, Paramount Court University Street London WC1E 6JP			
<b>Conservation Area</b>		<b>Article 4</b>	
Bloomsbury		Basements	
<b>Proposal</b>			
Amalgamation of 2 flats into a single residential unit (Class C3).			
<b>Recommendation:</b>		Grant Lawful Development Certificate	

## 1.0 Site Description

1.1 The host property relates to an eight storey purpose-built block of flats located on the northern side of University Street at the junction of University Street and Tottenham Court Road. The entire complex is currently sub-divided into 120 flats. The application properties are Apartments 28 and 29, located on the second floor of the building.

1.2 The application site is not listed but is located in Bloomsbury Conservation Area.

## 2.0 Proposal

2.1 A Certificate of Lawfulness is sought for the proposed amalgamation of 2 flats into a single residential unit.

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

3.1 At the application site:

**2012/0716/P** - Conversion of 2 x 1 bed self-contained flats to 1 x 1-bed self contained

residential flat (Class C3). **Granted conditional permission 05/04/2012**

### **3.2 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 31/03/2021**

**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”. However, the legislation does not comment on whether combining two dwellings into one would constitute development. In this case it is 2 units into 1 in this property.
- 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. In 2012 planning permission was granted to combine two residential units at the property. However, given the time period between the applications of over 10 years and that the total number of units going from 121 to 119, the current proposal is not considered to have any material planning impact stemming from the change. It will not 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 appearance or the building. The site would remain in residential use following the conversion of two residential flats into a single dwellinghouse, and is not considered to be a material change of use. The de-intensification from two to one would have no material impact of neighbour amenity or infrastructure. 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, the proposal would result in the net loss of no more than one residential unit and would not result in the loss of residential floorspace. The proposed development as presented would therefore comply with policy H3 of the Camden Local Plan. This is confirmed by the supporting text to policy H3 (paragraph 3.75).
- 4.4** 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.

## **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.**



## Appendix 7

Application ref: 2020/1441/P  
Contact: Josh Lawlor  
Tel: 020 7974 2337  
Date: 21 April 2020

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Bruce Cavell  
43A Elsworth Road  
London  
NW3 3BS

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990

### **Certificate of Lawfulness (Proposed) Granted**

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

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)  
Drawing Nos: P01, P03, P04, P05-A, P06-A, P07, P08, P09, P10

Second Schedule:

**13 Steele's Road**  
**London**  
**NW3 4SE**

Reason for the Decision:

- 1 The amalgamation of the two flats into one does not fall within the "meaning of development" requiring planning permission as defined by the Town and Country Planning Act 1990.

Informative(s):

- 1 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Camden Contact Centre on Tel: 020 7974 4444 or Environment Department (Street Naming & Numbering)

Camden Town Hall, Argyle Street, WC1H 8EQ.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer

#### Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/would have been\* lawful on the specified date and thus, was not\*/would not have been\* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2020/1441/P
<b>Officer</b>		<b>Expiry date</b>	
Josh Lawlor		18/05/2020	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
13 Steele's Road London NW3 4SE			
<b>Conservation Area</b>		<b>Article 4</b>	
N/A		Basement	
<b>Proposal</b>			
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)			
<b>Recommendation:</b>		<b>Grant Certificate of Lawfulness</b>	

## 1.0 Site Description

1.1. The site is a three storey plus lower ground floor semi-detached building. The building is on the corner of Steele's Road and Eton Villas and is within the Eton Conservation Area.

## 2.0 Proposal

2.1. A Certificate of Lawfulness is sought for the proposed amalgamation of two flats, one at ground floor and first floor level and the second at second and third level flat, into one dwelling. 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 as a result of the development.

## 3.0- History

**2019/5200/P** Conversion of 1x 3 bed flat over ground and first floor with 1x 2 bed flat over second and third floor to form 1 x 5 bedroom self-contained residential flat  
**Granted subject to S106 agreement 22/01/2020**

**2007/3616/P** Erection of single-storey shed with sedum roof in rear garden. Granted 03/10/2007

**2005/0370/P** Change of use and works of conversion of raised ground and first floor flats into one three-bedroom maisonette and the formation of two new windows in the flank wall. **Granted 13/04/2005**

**2004/2492/P** Application for Certificate of Lawfulness for a proposed development for conversion of flats 2 & 3 into one dwelling unit. **Granted 21/07/2004**

**33650** Change of use and works of conversion to create five self-contained flats including the erection of a single storey rear extension and two dormer windows. **Granted 31/03/1982**

## 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 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.

4.2 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 two residential flats into a single dwelling, 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.

4.3 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.

## **5. Conclusion**

- 5.1. 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.
- 5.2. Grant certificate of lawful development (proposed).