



# Officer Report

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| <b>Application Number:</b> | <b>HGY/2023/2238</b>                                                                             |
| <b>Application Type:</b>   | <b>Lawful development: Proposed use</b>                                                          |
| <b>Address:</b>            | 78 Seymour Road, Hornsey, London, N8 0BE                                                         |
| <b>Proposal:</b>           | Lawful development for a proposed use: Conversion of 2x flats to dwelling (AMENDED DESCRIPTION). |
| <b>Case Officer:</b>       | Cameron Sturges                                                                                  |
| <b>Valid Date:</b>         | 17/08/2023                                                                                       |
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| <b>Applicant:</b>          | Sammy Jessica Glover                                                                             |
| <b>Agent:</b>              | Halecyon Architecture & Design                                                                   |

## **RECOMMENDATION**

### **RECOMMENDATION - GRANT CERTIFICATE**

#### **PROPOSED DEVELOPMENT AND LOCATION DETAILS**

This is an application for a Certificate of Lawfulness for the amalgamation of two flats to form a single-family dwelling.

The application site is a two-storey terraced property fronting Seymour Road that was originally one dwelling and subsequently converted into two flats. This application relates to the amalgamation of the two flats to create one residential unit. The site is not within any Conservation Area and is not within the curtilage of a listed building.

#### **RELEVANT PLANNING AND ENFORCEMENT HISTORY**

HGY/1995/0346 - Conversion to form 1 x 1 bed and 1 x 2 bed self-contained flats. – REFUSED 11/04/1995

HGY/1996/0416 - Certificate of lawfulness of use for the ground floor as a self contained flat – REFUSED 21/05/1996

#### **RELEVANT PLANNING LEGISLATION**

The application has been made under section 191 of the Town and Country Planning Act 1990 (as amended). This is not a planning application, and the planning merits are not relevant to this submission. Rather the applicant seeks to confirm that the proposed development is lawful. As such, the impact of the proposed development to neighbouring amenities or the character of the area cannot be taken into consideration for this submission.

#### **ANALYSIS/ASSESSMENT OF THE APPLICATION**

This Certificate proposes the amalgamation of two existing self-contained flats to form a single-family dwelling.

Section 55 of the TCPA 1990 expressly provides that converting a single dwellinghouse to create two or more dwellinghouses will result in a material change of use requiring planning permission. However, the legislation is

silent on whether combining dwellings, such as combining two flats into one as is the case in this application would also constitute development.

The legislation excludes internal works from the meaning of development, however, combining residential units could still result in a material change of use. This was confirmed by the High Court case of *Richmond-Upon-Thames London Borough Council v Secretary of State for Transport* [2000] 2 P.L.R. 115, which held that where a change of use gave rise to planning considerations (such as the loss of residential accommodation), those considerations were relevant to determining whether or not the change was material. In that case, the Local Plan contained a policy to prevent the loss of self-contained residential uses. The judgement considered that policy and the number of units that would be lost meant that in that case the conversion was a material change of use.

Subsequent case law appears to state that where the local plan does not have a policy that seeks to protect the number of separate residential units, then the proposed conversion of flats into a larger dwelling could be permitted development, particularly when the number of units involved is small.

Policy DM10: Housing Supply of the Haringey Development Management DPD (Adopted July 2017) states that 'The Council will resist the loss of all existing housing, including affordable housing and specialist forms of accommodation, unless the housing is replaced with at least the equivalent new residential floorspace'. The proposal would not result in a loss of floorspace and so does not conflict with DPD Policy DM10.

The proposed change from one to two residential units is typically not viewed to cause significant change in the appearance of a site or the nature or scale of activities taking place. Furthermore, the proposal is not considered to constitute a change of use and therefore the proposed use is considered lawful.

#### **CIL APPLICABLE**

The increase in internal floor area would not exceed 100sqm and therefore the proposal is not liable for the Major's CIL charge.

#### **SUMMARY AND CONCLUSION**

The proposal does not fall within the statutory definition of development as set out in Section 55 of the Town & Country Planning Act 1990 (as amended) and is therefore lawful.

#### **RECOMMENDATION**

#### **GRANT CERTIFICATE**

In pursuance of their powers under the above Acts and Order the London Borough of Haringey as local planning Authority hereby CERTIFY that the above proposal described by the applicant constitutes PERMITTED DEVELOPMENT and is therefore LAWFUL.