

**ROYAL BOROUGH OF KENSINGTON & CHELSEA
REPORT BY EXECUTIVE DIRECTOR,
PLANNING AND BOROUGH DEVELOPMENT**

APP NO. CL/15/04119/Q26

Date: 28/08/2015

This application is for a class of development which may be determined under powers delegated to the Executive Director, Planning and Borough Development. It is not an application which any Councillor has asked to be considered by the Planning Applications Committee.

RECOMMENDED DECISION: Refuse certificate of lawful proposed use

SITE ADDRESS77 Drayton Gardens, LONDON,
SW10 9QZ

APPLICATION 01/07/2015
DATED

APPLICATION 06/07/2015
COMPLETE

APPLICANT/AGENT ADDRESS

Mrs E McBurney
Michael Burroughs Associates
33 Shore Road
Holywood Down
BT18 9HX

Applicant: Mr M Nixon

<u>Listed Building</u>	No	<u>Cons. Area</u>	N/A	<u>Ward</u>	Courtfield
<u>CAPS</u>	No	<u>Eng. Heritage</u>	N/A	<u>Art '4'</u>	No
<u>Consulted</u>	<u>Objections</u>	<u>Support</u>	<u>Petition</u>	<u>Comments</u>	
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PROPOSAL: Internal alterations involving amalgamation of two residential units into one.

RBK&C Drawing No(s): CL/15/04119

Applicant's Drawing No(s): 653/A3/150 (existing) , 653/A3/151 (existing) , 653/A3/350 (proposed), 653/A3/351 (proposed) and 653/A3/100.

REASONS FOR REFUSAL

- The proposed amalgamation of 2 residential units into a single residential unit at second and third floor levels is a material change of use. Therefore the proposal constitutes development as defined by Section 55 of Town and Country Planning Act 1990 which would require planning permission.

Constraints

Conservation Area	No
Listed Building	No
Flood Zone	No
Critical Drainage Area	No
Town Centre	No
TPO	No
Article 4	No
Other	N/A

Summary report on application**1. Introduction**

- 1.1 The Council receives around 6000 applications under the Planning Acts each year, so it is not practical for all to be determined by councillors in a public meeting. Many applications are also fairly straightforward and do not involve complex issues of wider public interest where the time and resources involved in a formal public discussion is necessary. The Council's Constitution therefore delegates authority to decide many applications to the Council's Executive Director, Planning and Borough Development. Councillors can then spend more time considering the cases of widest public importance and greatest importance to the community.
- 1.2 This application is of a nature where the Council's Constitution delegates the authority to make the decision to the Executive Director, Planning and Borough Development rather than it being decided by a committee of councillors.
- 1.3 Before preparing this summary report a planning officer has visited the application site, considered any relevant previous planning applications in relation to the development and considered any comments made by those interested in the application such as consultees with specialist knowledge and nearby residents.
- 1.4 By indicating that the development proposal complies with relevant local policies, the planning officer is taking into account the information submitted with the application, any previous relevant applications, observations during the site visit, any comments received in connection with the application and any other case specific considerations which are material to the decision.

2. Reason for delegated decision

- No councillors have requested that the case come to the Planning Committee.

3. The site and its surroundings

3.1 77 Drayton Gardens is a five storey (including lower ground floor and mansard roof) end of terrace property located on the east side of Drayton Gardens. The building is subdivided into 5 self contained residential units. This application concerns the residential units located at second and third floor levels.

4. The proposal and any relevant planning history

4.1 A Certificate of Lawful Development is sought to confirm the lawfulness of the amalgamation of the two 1 bedroom flats to provide a single maisonette at second and third floors would be lawful.

4.2 The proposal has already been partially carried out and there is in enforcement investigation into the matter.

4.3 It should be noted that the applicant, Mr. Nixon, was sent a written response from the Council on the 2 October 2014 that stated that the amalgamation of the two residential units would require planning permission and would be unlikely to be successful.

4.4 In response to the Planning Contravention Notice issued in respect of the land at 77 Drayton Gardens on the 25/06/2015, the returned questionnaire stated that the works to amalgamate the two residential units commenced on the 1 May 2015.

5. Evaluation

5.1 The proposal would result in the change from 2 self contained residential units to one dwelling occupying the second and third floors. This authority takes the position that the amalgamation of 2 or more existing residential units to form 1 residential unit, even if only internal alterations are proposed, constitutes a material change of use as defined by Section 55 of the Town and Country Planning Act 1990.

5.2 The proposal, supported by the submitted drawings, would result in the amalgamation of 2 self contained residential units into 1 residential unit, which would require planning permission.

6 Consultations carried out

6.1 There is no statutory requirement for public consultation when considering a Certificate of Lawfulness. Nevertheless, two letters of objection have been received.

6.2 These letters are summarised as:

Comment	Response
Inaccuracies in the application form and drawings	These comments are noted. In relation to ownership, the Council is satisfied that the necessary information has been supplied in order to determine the application.

7. Recommendation

7.1 **Refuse certificate of lawful proposed use**

GRAHAM STALLWOOD
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT

List of Background Papers:

The contents of file CL/15/04119 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

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