

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 21/05/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/00953	Agenda Item:	N56	
Address:	186 Portobello Road, LONDON			
Proposal:	Insallation of replacement plant and minor associated external alterations			
Applicant:	Portobello 95 Trade			
Agent:	Bidwells			
Properties notified:	Objections:	Support:	Comments:	Petition:
26	3	0	0	0
Conservation area:	Ladbroke			

1. Summary

- 1.1 The replacement plant on the existing terrace and associated external alterations would preserve both the character and appearance of the Ladbroke Conservation Area, in accordance with statutory requirements. The appearance of the property would not be harmed, and the proposed alterations would have an acceptable impact on neighbouring living conditions, subject to conditions.
- 1.2 Objections received from interested parties have been taken into consideration and are addressed throughout the report and in Section 8. Where appropriate and necessary, conditions are recommended to address the concerns raised.

It is recommended the Committee grants planning permission with the conditions listed in Section 9 of this report.

2. Reason for committee consideration

- Three or more objections were received during the consultation period and the recommendation is to grant.

3. The site and its surroundings

- 3.1 The application site relates to No. 186 Portobello Road, which is a three (3) storey plus basement Public House with frontages to Portobello Road and Talbot Road.

3.2 The building is not listed but within a Ladbroke Conservation Area. The property is located within the primary frontage of Portobello Road Special District Shopping Centre.

4. The proposal and any relevant planning history

4.1 The application seeks consent to install a replacement plant and minor associated external alterations. Specifically, this involves:

- Remove the existing cold store to the terrace visible from Talbot Road
- Demolish existing exhaust duct on the rear elevation
- New Cold Room Condenser Unit, AC Condenser Unit and exhaust duct surrounded by 2 x 2.4m high acoustic screens at rear of terrace away from Talbot Street elevation
- Increase size of existing opening on rear elevation for new high level fresh air intake louvre

4.2 The case officer has visited the site during a recent previous application and has used the submitted information, photographs, Google, and Bing Maps to assess the application.

4.3 The site has extensive planning history with regard to the use of the footpath for dining. The following application is relevant to the proposed application.

Reference	Description	Decision
PP/16/01366	Alterations to facade including recessed access doors to Portobello Road, creation of shop entrance on Talbot Road, timber balustrade at first floor terrace and low level glazed brick cladding and external awnings.	Granted – 25/05/2016

5. Main policies and strategies relevant to the decision

The development plan

5.1 The main planning considerations applying to the site and the associated policies are:

	Local Plan
Conservation areas	CL3
General townscape	CL1, CL2, CL6, CL11
Living conditions	CL5

5.2 These policies can be read online at:

- Local Plan:
<https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/local-plan/local-plan>

5.3 The Council started a New Local Plan Review (“NLPR”) and consultation on Publication Policies (Regulation 19) closed on 22 December 2022. The Council submitted the NLPR for examination (Regulation 22) on 8 February 2023. Examination hearings were held in June and July 2023. The Council received a Post Hearings letter from the Inspector requesting the Council prepare a schedule of Main Modifications and the public consultation on these ended on 12 March 2024. The representations received are being considered by the Inspector. The final stage of the examination is for the Council to receive the Inspector’s report but there is no published date for this. The Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector’s report and may change.

- 5.4 The statutory starting point for determining this proposal remains the adopted policies in the development plan, including the RBKC Local Plan 2019, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, paragraph 47 of the National Planning Policy Framework, and paragraph 001 of the National Planning Practice Guidance on Plan-making. Paragraph 48 of the NPPF outlines the weight local authorities may give to relevant policies in emerging plans. The Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector's report and may change. The emerging policies in the NLPR are a material consideration afforded moderate weight at this stage however, where specific emerging policies are of particular relevance to the assessment, individual weightings have been given and expressed.

Other local strategies or publications

- 5.5 The main relevant supplementary planning documents adopted by the Council are:

- Ladbroke Conservation Area Proposal Statement/Appraisal
- Noise

- 5.6 These documents can be read online at:

- Conservation Area Proposal Statements and Conservation Area Appraisals: <https://www.rbkc.gov.uk/planning-and-building-control/heritage-and-conservation/conservation-areas/conservation-area>
- Other documents: <https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/supplementary-planning-documents-and-guidance>

6. Evaluation

- 6.1 The decisive issues are:

- i Whether the proposals would continue to preserve or take opportunities to enhance the character and appearance of the building and wider Ladbroke Conservation Area; and
- ii Whether the proposals would continue to ensure good living conditions for all neighbouring occupiers.

Impact on the Conservation Area

- 6.2 The existing condition of the first floor terrace on the Talbot Road elevation does not positively contribute to the character of the building or the wider Ladbroke Conservation Area. The terrace currently comprises a large cold store unit adjoining the terrace railing, which is highly visible from Talbot Road, as well as three unscreened condenser units along the rear elevation. The proposal seeks to remove this equipment and create a new screened area for mechanical ventilation at the rear of the terrace which would sit between the gap of the subject building and the adjacent residential building at the further most point from Talbot Road. The new screened area would be discreetly located and not highly visible from the public domain and is therefore an improvement to the presentation of the building to the wider conservation area. Details of the screening are secured by condition.
- 6.3 The proposals also involve demolishing the existing exhaust duct at the rear of the terrace and constructing a new exhaust duct in the same location. The existing duct riser slightly protrudes beyond the height of the roof and the new duct riser would extend 1m above the roof level which is taller than the current condition. Notwithstanding, the exhaust duct riser is substantially setback from Talbot Road elevation and would not be highly visible from the public domain. The minor increase to the duct riser would not result in a perceived

difference in harm to the building or the wider conservation area due to the existing condition. The proposals are acceptable with regard to Policies CL1, CL2, CL3 and CL11 of the Local Plan 2019 in this regard.

- 6.4 The proposal involves the alteration of an existing opening on the rear elevation near the corner of the Talbot Road side elevation which would be partially visible from Talbot Road. The rear elevation is predominately a solid, face brick wall and this existing opening is for a fresh air intake duct. Increasing this existing opening for the purpose of a larger high level fresh air intake louvre would not cause substantial harm to the character of the building or the wider conservation area noting the existing condition. The louvre would improve ventilation for the first floor of the building therefore the public benefit would outweigh the minor harm caused. The proposals are acceptable with regard to Policy CL3 of the Local Plan 2019 in this regard.

Living Conditions

- 6.5 The proposal involves new cold room and mechanical ventilation equipment to the rear elevation of the terrace at first floor level. The condenser units and exhaust duct would be screened by two 2.4m high acoustic screens which is an improvement to the current condition. A Noise Impact Assessment accompanied the proposal and Council's Environmental Health Officer did not raise any objections to the proposal subject to compliance with conditions 3 to 5 which require compliance with this report. Subject to these conditions, the proposals would not impact on the acoustic amenity of nearby residents and are acceptable with regard to Policies CE6 and CL5 of the Local Plan 2019.
- 6.6 The proposals do not seek any change of use of the site therefore the proposals would exacerbate the existing conditions with regard to the acoustic and visual amenity of nearby residents. The terrace is established as existing.

Issues and balancing

- 6.7 The proposals would improve the presentation of first floor terrace to the public domain and therefore be a positive alteration with regard to Policies CL1, CL2, CL3 and CL11 of the Local Plan 2019. The public benefit of the alterations would outweigh any minor harm to the character of the building and the wider Ladbroke Conservation Area. The proposals would not harm the acoustic amenity of nearby residents subject to compliance with the conditions and is therefore in accordance with Policies CE6 and CL5 of the Local Plan 2019.
- 6.8 Considerable importance and weight has been attached to and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

7. Community Infrastructure Levy

- 7.1 If permitted and built, the proposal would not require a payment towards funding additional infrastructure under the Borough's Community Infrastructure Levy and a payment towards funding Crossrail under the Mayor of London's Community Infrastructure Levy.

8. Consultations carried out

Comments from interested parties

- 8.1 31 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 23/02/2024. A statutory notice advertising the application was posted near the site on 23/02/2024.

8.2 Three (3) letters were received objecting to the application, summarised as:

	Comment	Response
1	Noise impacts to nearby residential and concerns with regard to the acoustic report, as well as mitigation measures.	<p>This is a key issue in this case and has been carefully considered.</p> <p>The Council's Environmental Health Officer has reviewed the proposals in detail, including the Noise Impact Assessment, and does not raise any objections subject to compliance with the report and Conditions No. 3-5 which relate to noise attenuation.</p> <p>The new plant will therefore be subject to greater control with these new conditions when compared to the existing site situation.</p>

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Director of Environmental Health	Acceptable subject to conditions	Part 6.5

9. Recommended conditions if the application is granted

1. **Time Limit**
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions.
2. **Compliance with approved drawings**
The development shall not be carried out except in complete accordance with the details shown on submitted plans *Site Plan by Pera Studios (not dated), Planning Proposal Ground, First and Second Floor (PP- 01)*
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
3. **Noise from building services plant and vents**
Noise emitted by the plant, when operating concurrently or in individually, shall not increase the lowest existing measured background LA90(15min) level measured or predicted at 1.0m from the nearest residential window and/or at a height of 1.2m above any adjacent residential garden, terrace, balcony or patio at any time when the plant is operating. The plant shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is unable to comply with this Condition, they shall be switched off and not used again until it is able to comply.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local

4. **Anti-vibration mounts for air-conditioning/ extraction equipment**
All plant and equipment shall be supported on adequate proprietary anti-vibration mounts as necessary to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter. If at any time the plant is unable to comply with this Condition, it shall be switched off and not used again until it is able to comply.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local Plan 2019.
5. **Noise - compliance**
In order to comply with Condition 3, the noise mitigation measures as specified in the Noise assessment (prepared by compiled by Conabeare Acoustics Limited dated 1st February 2024 ref: CS8725), shall be adopted and implemented in full.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local Plan 2019.
6. **Submission of details (Full PP)**
Prior to the relevant part of the works, **full particulars of the following** shall be submitted to and approved in writing by the local planning authority and the development shall not be completed otherwise than in accordance with the details so approved:
(a) Details of the 2.4m acoustic screen including materials and finish.
Reason – To accord with the development plan by ensuring that the character and appearance of the area are preserved, to comply with relevant policies in the Local Plan 2019.

INFORMATIVES

- 1 Your attention is drawn to the Conditions of this Permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act 1990, as amended. All Conditions must be complied with. If you wish to seek to amend a Condition you should apply to do so under s.73 of the Act, explaining why you consider it is no longer necessary, or possible, to comply with a particular condition.
- 2 Planning permission is hereby granted for the development as shown on the approved drawings. Any variation to the approved scheme may require further permission, and unauthorised variations may lay you open to planning enforcement action. You are advised to seek advice from the Directorate of Planning and Place, before work commences, if you are thinking of introducing any variations to the approved development.

Advice should urgently be sought if a problem occurs during approved works, but it is clearly preferable to seek advice at as early a stage as possible. Use the following link to see how advice can be obtained: [Planning Advice Service](#)

- 3 This property is within a Conservation Area. All building works should, therefore, be
- /PP/24/00953: 6

completed with great care. External facing work and detailed treatment should be finished in a manner sympathetic to the existing building. If there is any doubt about the way in which work should be carried out, you should seek the advice of the Directorate of Planning and Place.

- 4 To assist applicants in finding solutions to problems arising in relation to their development proposals the Local Planning Authority has produced planning policies, and provided written guidance, all of which are available on the Council's website, and which has been followed in this instance.
- 5 This development has been categorised as Category 3 for the purposes of the Council's Code of Construction Practice, so does not require a condition securing a Checklist or Site Construction Management Plan (SCMP). You are reminded that the Code still applies to building works at the site with regard to working hours and other site practices, and you are advised to review the Code to be aware of its objectives <https://www.rbkc.gov.uk/environment/code-construction-practice>

You are reminded that, if not properly managed, construction works can lead to negative impacts on the local environment, reducing residential amenity and the safe function of the highway. The Council can prosecute developers and their contractors if work is not managed properly. For advice on how to manage construction works in the Royal Borough please see the Council's website:

www.rbkc.gov.uk/environmentandtransport/adviceforbuilders.aspx. From this page you will also find guidance on what to include in Construction Traffic Management Plans (where these are required).

Construction and demolition work is controlled by the Council under sections 60 and 61 of the Control of Pollution Act 1974. The Council has adopted a Code of Construction Practice which sets out best practice standards expected in the borough and applies to new development projects from April 2019. Under the terms of the Code, works heard at the boundary of the site are restricted to:

Monday to Friday 8am – 6pm

Saturday, Sunday and public holidays – none permitted

The code also introduces a further set of restricted hours for high impact activities such as demolition and concrete breaking. Undertaking noisy works outside of the Code hours may be liable for prosecution and a fine of up to £5000 where a notice has been served under the Control of Pollution Act 1974.

If you are required to submit a Code of Construction Checklist and Site Construction Management Plan (SCMP), please contact the Construction Management Team on 020 7361 3002 or by email at dehcmt@rbkc.gov.uk

Your attention is drawn to Section 61 of the Control of Pollution Act 1974, which allows developers and their building contractors to apply for 'prior consent' for noise generating activities during building works. This proactive approach involves assessment of construction working methods to be used and prediction of likely construction noise levels at sensitive positions, with the aim of managing the generation of construction noise using the 'best practicable means' available. You are advised to engage an acoustic consultant experienced in construction noise and vibration assessment and prediction to complete your S.61 application. Relevant information can be found here [S.61 Control of Pollution Act 1974](#)

Background papers:

Documents associated with the application (except exempt or confidential information) may be viewed at www.rbkc.gov.uk/PP/24/00953. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Ms. M. Quigg

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