

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

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**APP NO. PP/11/03903/Q16  
PLANNING APPLICATIONS COMMITTEE 06/03/2012  
AGENDA ITEM NO. N16**

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**SITE ADDRESS**

<b>282-292 Westbourne Grove LONDON W11 2PS</b>	<b><u>APPLICATION DATED</u></b>	<b>24/11/2011</b>
	<b><u>APPLICATION COMPLETE</u></b>	<b>28/11/2011</b>

**APPLICANT/AGENT ADDRESS**

**Miss P Flanagan  
Brinkworth  
4 - 6 Ellsworth Street  
LONDON  
E2 0AX**

<b><u>LISTED BUILDING</u></b>	<b>N/A</b>	<b><u>CONS. AREA</u></b>	<b>Ladbroke</b>	<b><u>WARD</u></b>	<b>Colville</b>
<b><u>CAPS</u></b>	<b>Yes</b>	<b><u>ENGLISH HERITAGE</u></b>	<b>N/A</b>	<b><u>ART '4'</u></b>	<b>No</b>

<b><u>CONSULTED</u></b>	<b><u>OBJECTIONS</u></b>	<b><u>SUPPORT</u></b>	<b><u>PETITION</u></b>	<b><u>COMMENTS</u></b>
<b>12</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>

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**Applicant**            **All Saints**

**PROPOSAL:**            **Removal and replacement of shopfronts to Westbourne Grove elevation and Portobello Road elevation in timber, including replacement of two bays of windows with new timber frontage, infill section of wall and installation of new double door entrance.**

**RBK&C Drawing No(s):PP/11/03903**

**Applicant's Drawing No(s): A208.1, A208.2, and A208.3.**

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**RECOMMENDED DECISION:**    **Grant planning permission**

## **CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:**

1. **Within 6 months of the date of this permission, the shopfronts and all associated works hereby approved to the Westbourne Grove and Portobello Road elevations shall be installed in full in accordance with the drawings and details hereby approved and shall thereafter be so maintained.**  
*Reason - To ensure the removal of the existing unauthorised shopfronts and to protect the character and appearance of the Conservation Area.*
2. **All work making good shall be finished to match the existing original work in respect of material, colour, texture, and profile and, in the case of brickwork, facebond and pointing. (C071)**  
*Reason - To preserve and enhance the character and appearance of the Conservation Area. (R072)*
3. **All non-glazed parts of the shopfront, doors and windows hereby approved shall be constructed of painted timber (not stained or varnished) and shall thereafter be so maintained. (C209)**  
*Reason - In order to preserve the character and appearance of the Conservation Area. (R206)*

## **INFORMATIVES**

- 1 Your attention is drawn to the Statutory provisions relating to projections over the public highway. Doors and windows close to the edge of the public footway must be designed to open inwards. Projections over the highway of any kind require additional consent and are only approved in exceptional circumstances and consent must be obtained before the commencement of such work. The Directorate of Transportation and Highways, Room 311, Town Hall, Hornton Street W8 7NX (020-7361-2737) can give further advice. (I26)
- 2 I67A Construction Management
- 3 I68 TFL - Olympic Route Network
- 4 I67A Construction Management
- 5 I68 TFL - Olympic Route Network

## **1.0**     **SITE**

1.1     The site is situated on the northern side of Westbourne Grove on the north-western corner of its junction with Portobello Road. It spans six buildings including numbers 282-292 Westbourne Grove. Number 282 has a side elevation to Portobello Road. The ground floor and basement of each building are linked internally to provide a single retail unit in Use Class A1. The upper floors of the building are in residential use. The building is not listed but is in the Ladbroke Conservation Area.

## **2.0**     **PLANNING HISTORY**

2.1     This site has developed a long planning and enforcement history. The most relevant planning application to this case is **PP/10/03880** which was refused at the Planning Applications Committee on 25/10/2012. The following details are in chronological order.

2.2     **PP/04/01293** (282-290 Westbourne Grove) Erection of a mansard roof addition, first floor rear extension, alterations to the ground floor shopfronts, the creation of two additional self contained flats and alterations to both the front and rear elevations. Granted 17/2/2005

2.3     **PP/07/03527** (282-292 Westbourne Grove) Alterations in connection with reduction of existing residential units from 6 to 3 and amendments to existing permission Reference: PP/04/01293 including alterations to roof and fenestration and rear extension. Granted 1/5/2008

2.4     **PP/09/00363** (282-292 Westbourne Grove) Alterations to the ground floor shopfront (amendments to existing permission Ref. PP/07/02527). Granted 16/4/2009

2.5     **PP/10/00509** (282-292 Westbourne Grove) Retention of shopfronts on Westbourne Grove elevation and Portobello Road elevation, including further alterations to each shopfront elevation (Part retrospective). Refused 14/03/2010. The reasons for refusal read:

1. Notwithstanding inaccuracies in the plans submitted, the shopfronts, by virtue of their materials and detailed design, in particular the use of glass reinforced plastic and the poor finish and confused alignment of architectural details, causes harm to the character and appearance of the building and the Conservation Area and fails to enhance the Borough, contrary to 'saved' policies of the Unitary Development Plan, in particular policies STRAT1, STRAT10, STRAT11, CD27, CD28, CD50, CD57, CD58, CD61, CD62, CD70 and CD71 and policies of the Submission Core Strategy, in particular policies CL1, CL2, CL3 and 'The Design and Conservation of

Shopfronts and Shopping Streets' Supplementary Planning Guidance, adopted May 1995 and 'The Portobello Road Shopfront Design Guide', Summer 1989.

1. The Portobello Road shopfrontage, by virtue of its extended expanse of shopfrontage toward 115 Portobello Road at the northern side of the site, results in the loss of space for street markets and gives undue prominence to this side elevation of the building resulting in an inconsistent and unbalanced appearance to the building which is visually harmful to the building and the Conservation Area, contrary to 'saved' policies of the Unitary Development Plan, in particular policies S15, STRAT1, STRAT10, STRAT11, CD27, CD28, CD50, CD57, CD58, CD61, CD62, CD70, and CD71 and policies of the Submission Core Strategy, in particular policies CF4, CL1, CL2, and CL3 and 'The Design and Conservation of Shopfronts and Shopping Streets' Supplementary Planning Guidance, adopted May 1995 and 'The Portobello Road Shopfront Design Guide', Summer 1989.

2.6 **CA/10/00510** (282-292 Westbourne Grove) Retention of three illuminated projecting sewing machine signs. Refused 13/04/2010. The reason for refusal read:

1. In the absence of an acceptable shopfront development, the illuminated advertisements present an uncoordinated, cluttered, confused and discordant arrangement to the streetscene, causing harm to the building and this part of the Conservation Area, contrary to 'saved' policies of the Unitary Development Plan, in particular policy CD76 and policies of the Submission Core Strategy, in particular policy CR4 and 'The Design and Conservation of Shopfronts and Shopping Streets', Supplementary Planning Guidance.

2.7 An Enforcement Notice was issued on 11/5/2010 to take effect on 23/7/2010, requiring the removal of the unauthorised shopfront within a period of six months. No appeal was made, therefore the unauthorised shopfront should have been removed by 23/1/2011 in compliance with the notice. The notice was not complied with. The remedy in law to address this situation was to take prosecution or direct Action. Such action has not been taken because the determination of application PP/10/03880, noted below, was awaited.

2.8 With regard to the advertisements noted in section 2.6, these have now been altered to non illuminated signage and now benefit from deemed consent by virtue of Schedule 3, Part 1 Class 5 of the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.

2.9 **PP/10/01987** (282-292 Westbourne Grove) Retention of external alterations and conversion to provide 4 residential units. Provision of air conditioning units in housing on the first and second floor roof terraces and proposed alterations to first floor windows on the front elevation and to 6 rooflights. Granted 23/9/2010

**PP/10/03880** (282-292 Westbourne Grove) Replacement in timber of existing unauthorised shopfronts on Westbourne Grove elevation and Portobello Road elevation. Refused 28/10/2011. The reason for refusal read:

1. The Portobello Road shopfrontage, by virtue of its extended expanse of shopfrontage toward 115 Portobello Road at the northern side of the site, gives undue prominence to this side elevation of the building resulting in an inconsistent and unbalanced appearance to the building which is visually harmful to the building and the Conservation Area, contrary to policies of the Core Strategy adopted 8 December 2010, in particular policies CL1, CL2 and CL3; 'The Design and Conservation of Shopfronts and Shopping Streets' Supplementary Planning Guidance, adopted May 1995; 'The Portobello Road Shopfront Design Guide', Summer 1989; and the draft Shopfront Design Guide published June 2010.

2.10 Following the refusal of the above application, the Council's Planning Enforcement Team Leader wrote to the applicant on 31/10/2011 to initiate steps to prosecute those responsible for failing to comply with the enforcement notice. The applicant replied to confirm they would lodge an appeal against the above refused application and submit a fresh planning application to address the concern of the Committee reflected in the reason for refusal of the above refused application. The applicant also confirmed that a programme of works to replace the existing unauthorised shopfront would be contingent on a decision on a revised application. As such, further enforcement action is currently suspended pending the outcome of the current application and the outcome of the pending appeal decision on the most recently refused application.

2.11 **K5600/A/11/2165269** Appeal lodged against the refusal of planning application PP/10/03880 noted above on 18/11/2011. A decision on this appeal from the Planning Inspectorate is pending.

### **3.0 PROPOSAL**

3.1 Planning permission is sought for replacement of the existing unauthorised shopfronts on Westbourne Grove and on the frontage on Portobello Road.

- 3.2 The principal differences between application PP/10/00509 refused 14/3/2010 and application PP/10/03880 refused 28/10/2011 were the removal of the glass reinforced plastic parts of the shopfronts on the Westbourne Grove and Portobello Road elevations; the insertion of replacement timber shopfronts; alterations to the detailed design of shopfront features including pilasters, stallrisers, fascia boards, door locations and corbel brackets.
- 3.3 The principal differences between application PP/10/03880 refused 28/10/2011 and the application which is now the subject of this report is that the extended expanse of shopfrontage on the Portobello Road elevation toward 115 Portobello Road is now proposed to be reinstated as a blank rendered wall with a small window and a single set of double doors. When application PP/10/03880 was refused at the Planning Applications Committee of 25/10/2011 it was the increased expanse of shopfront on this elevation which was given as the reason for refusal. The current application seeks to address that reason for refusal and it is noted that this proposal substantively reflects what has previously been granted on this part of the site in 2005 and 2008 under application references PP/04/01293 and PP/07/03527 respectively.

#### **4.0 PLANNING CONSIDERATIONS**

- 4.1 The main consideration in the determination of this application is the visual impact of the development, particularly in terms of the character and appearance of the Ladbroke Conservation Area. The earlier refusals of planning permission referred to in section 3 of this report are a material consideration.
- 4.2 In the interests of clarity and for the avoidance of doubt, it is confirmed that the earlier change of the use of the building from an antiques arcade to a fashion outlet is not a consideration in the determination of this case nor is the amalgamation of the separate planning units into one larger unit as planning permission is neither sought nor required for these changes. Planning permission cannot be withheld on the current proposal either because of the change in the use of the building from an antiques arcade to a clothing retailer, or because the current glass reinforced plastic shopfront was installed without planning permission.
- 4.3 The Core Strategy of the Local Development Framework for the Royal Borough was adopted on December 8<sup>th</sup> 2010, and contains planning policies which have succeeded the majority of those in the Unitary Development Plan (UDP). For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the 'Development Plan' now comprises the Core Strategy, the London Plan (July 2011), plus relevant 'saved' policies from

- the UDP. The relevant policies are attached to this report.
- 4.4 Core Strategy policy CL1 requires all development to respect existing context, character and appearance, take opportunities to improve the quality and character of buildings and requires development to address matters such as scale, proportions, building lines, materials and historic fabric. Policy CL3 requires development to preserve and take opportunities to enhance the character or appearance of Conservation Areas, historic places and townscapes.
- 4.5 Policy CL2 refers specifically to shopfronts and requires shopfront alterations to preserve those elements that contribute to traditional character, to respect the building's original framework, have a positive visual impact on the appearance of the building and street scene and provide level access for all. The 'Design and Conservation of Shopfronts and Shopping Streets' Supplementary Planning Guidance (SPG) and the Portobello Road Shopfront Design Guide contain detailed information in respect of shopfront design. The Shopfront Design Guide was adopted on 25 November 2011 as a Supplementary Planning Document. These documents are material considerations in the determination of this application.
- 4.6 The current application is identical to the most recently refused application except in respect of the two northernmost shopfront bays on the Portobello Road elevation. The Committee did not object to the rest of that application and refused the application only on the extended expanse of shopfrontage on the Portobello Road elevation toward 115 Portobello Road. To address that reason for refusal the applicant now proposes to reinstate a blank rendered wall with a small window and a single set of double doors. This aspect of the proposal substantively reflects what has previously been granted on this part of the site in 2005 and 2008 under application references PP/04/01293 and PP/07/03527 respectively.
- 4.7 All other matters were addressed in the earlier report for application PP/10/03880 and are summarised below.
- 4.8 The Council's Conservation and Design Manager was consulted on each drawing received on the earlier application, reference PP/10/03880. He advised that the proposed size and basic form of the new shopfronts is satisfactory. He originally expressed concern about the width and detailing on two of the pilasters on the Westbourne Grove elevation. He commented that on the Portobello Road elevation the proposal changes between the shopfront under the main building and the shopfront under the extension to the rear. He commented this is fine in principle to distinguish between the primary and a secondary frontage but that it would benefit from more 'stepping down' of the fascia and stallriser and that a deeper stallriser would improve the design. He did not object to this aspect of the current application and commented that there is variation on other corner buildings

elsewhere on Portobello Road. He sought sections and a sample of the proposed glass and a revised configuration of the corbel brackets to have larger more ornate corbels under the quoins with simpler versions in between.

- 4.9 The applicant amended the drawings accordingly. The type of glass proposed is the same glass type which is already installed so the provision of a sample has not been necessary in this instance. The Conservation and Design Managers final comment was that the overall form of the shopfronts in terms of materials and proportions is now satisfactory. His comments about the Portobello Road elevation underneath the rear extension of the building are now superseded by the revised proposals for the Portobello Road elevation but his acceptance of the proposed replacement Westbourne Grove elevation and the southernmost bays of the Portobello Road elevation remain relevant.
- 4.10 In respect of reason for refusal 2 of the first refused application, reference PP/10/00509, concerning the extended shopfrontage, the applicant advised that:
- there were never been any official market stalls in this location;
  - the official market stalls are on the other side of the street;
  - at this point the public footway is too narrow for market stalls; and
  - the only stalls or goods ever displayed on this section were part of the freeholder's business and attached to the building itself.
- 4.11 In respect of level access to the retail unit, the existing entrance on the corner of Westbourne Grove and Portobello Road would be maintained. This provides level access to the ground floor and is in excess of the width (800mm) required by policy.
- 4.12 Overall it is considered that the matter of the increased expanse of shopfront is resolved by the current application and that the proposed alterations would result in a series of traditionally designed shopfronts which would preserve and enhance the character and appearance of the Conservation Area and the character function of the Portobello Road Special District Centre and would accord with development plan policies.
- 4.13 A Condition is recommended to ensure that the existing unlawful shopfront is removed within six months of the date of permission, that the shopfronts are installed in full in accordance with the approved drawings and, for the avoidance of doubt, that the replacement shopfronts, doors and window frames are constructed of painted timber as per the annotations on the drawings.



## **5.0 PUBLIC CONSULTATION**

5.1 Adjoining addresses were notified of the proposals, a site notice erected outside the premises and the proposals publicised in the Kensington and Chelsea Chronicle.

5.2 Representations have been received which object to the proposed development. In summary, the representations object on the basis that the proposed development:

- Has not been properly consulted upon and was consulted upon over Christmas;
- Has been submitted at the same time as an appeal for the refused application;
- Would be constructed of plastic;
- Has provided a 'megastore' which has damaged the area;
- Has provided one shop where before there were small shops;
- Is submitted by a clone retailer;
- Does not promote markets and antiques trading;
- Increased rents in the area;
- Is submitted by an applicant who has built unauthorised shopfronts in various locations elsewhere;
- Is supported by documents with erroneous information and inaccurate information and drawings;
- Provides a door which was originally meant to be only a fire escape in an area with a narrow pavement;
- Fails to control the opening of doors;
- Is associated with blackmail and secrets;
- Is contrary to development plan policy;
- Does not address the Westbourne Grove elevation; and
- Does not include previously approved drawings.

Responses are as follows:

### **Has not been properly consulted upon and was consulted upon over Christmas**

5.3 All statutory obligations in respect of consultation have been met and the proposed date of a decision on this application is in excess of two months after Christmas. Whilst responses have been sought by a deadline in order that the case may be progressed representations received after the consultation deadline in advance of the drafting of this report have been considered

### **Has been submitted at the same time as an appeal for the refused application**

5.4 The applicant has lodged and appeal against the most recent refusal of planning permission and submitted this application concurrently and there is nothing illegal or contrary to any planning policy in this approach.

- Would be constructed of plastic**
- 5.5 This is a misconception and the drawing annotate the proposed shopfront as timber and a condition is recommended for the avoidance of doubt.
- Has provided a 'megastore' which has damaged the area**
- 5.6 In the interests of clarity and for the avoidance of doubt, it is confirmed that the earlier change of the use of the building from an antiques arcade to a fashion outlet is not a consideration in the determination of this case nor is the amalgamation of the separate planning units into one larger unit as planning permission is neither sought nor required for these changes. As a matter of fact, planning permission cannot lawfully be withheld on the current proposal because of the change in the use of the building from an antiques arcade to a clothing retailer.
- Has provided one shop where before there were small shops**
- 5.7 See 5.6 above.
- Is submitted by a clone retailer**
- 5.8 This is not a material planning consideration and is not a basis for refusing or withholding planning permission.
- Does not promote markets and antiques trading**
- 5.9 The application is for a replacement shopfront. As a matter of fact, planning permission cannot lawfully be withheld on the current proposal because of the change in the use of the building from an antiques arcade to a clothing retailer.
- Increased rents in the area**
- 5.10 This is not a material planning consideration and is not a basis for refusing or withholding planning permission.
- Is submitted by an applicant who has built unauthorised shopfronts in various locations elsewhere**
- 5.11 As a matter of fact, planning permission cannot lawfully be withheld on the current proposal because the current glass reinforced plastic shopfront was installed without planning permission.
- Is supported by documents with erroneous information and inaccurate information and drawings**
- 5.12 These are unfounded allegations for which there is no evidence. Officers are satisfied the drawings and documents are of sufficient quality and detail for a planning decision to be reached.
- Provides a door which was originally meant to be only a fire escape in an area with a narrow pavement**
- 5.13 Photographs of the building when it was used as Lipka's Arcade clearly show the was an entrance to the building where the new

entrance is proposed.

**Fails to control the opening of doors**

- 5.14 The drawing show proposed doors opening inwards and not over the highway and it is not a matter for the Local Planning Authority to control the opening of the doors of shops during normal shopping hours.

**Is associated with blackmail and secrets**

- 5.15 No evidence has been provided about any improper conduct of officers despite unfounded allegations having been made.

**Is contrary to development plan policy**

- 5.16 The report sets out the relevant development plan policies and assesses the application in respect of the relevant development plan policies.

**Does not address the Westbourne Grove elevation**

- 5.17 The most recently refused application was refused only on the basis of the visual impact of the increased expanse of shopfront on the Portobello Road elevation. The Committee on 25/102011 considered the Westbourne Grove elevation and the reason for refusal did not cite the Westbourne Grove elevation as being unacceptable.

**Does not include previously approved drawings**

- 5.18 All previously considered drawings for previously submitted planning applications are held against the relevant case numbers cited in this report in the Council's Planning Register and are available for public inspection.

**6.0 CONCLUSION**

- 6.1 The proposed shopfronts and side flank wall, by virtue of their materials and detailed design, are considered to preserve and enhance the character and appearance of the Conservation Area and a condition is recommended to ensure that the existing unlawful shopfronts are removed and replaced within six months of the date of decision. It is considered that the proposals are acceptable in terms of their impact on the street scape and the pedestrian flows of both Westbourne Grove and Portobello Road and are considered to be compliant with the appropriate Development Plan policies.

**7.0      RECOMMENDATION**

**7.1      Grant planning permission**

**JONATHAN BORE  
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT**

**List of Background Papers:**

**The contents of file PP/11/03903 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.**

**Report Prepared By:      LP  
Report Approved By:      DT/JB  
Date Report Approved:    22/02/2012**

**PSC03/12/LP.REP**

23/02/2012 09:09:58

**Removal and replacement of shopfronts to Westbourne Grove elevation and Portobello Road elevation in timber, including replacement of two bays of windows with new timber frontage, infill section of wall and installation of new double door entrance.**

**SUMMARY OF REASONS FOR DECISION**

You are advised that this application was determined by the Local Planning Authority with regard to Development Plan policies, including relevant policies contained within the Core Strategy of the Local Development Framework, the London Plan, as well as policies 'saved' from the Unitary Development Plan, and was considered to be in compliance with the relevant policies. In particular, the following policies were considered:

**Core Strategy adopted 8 December 2010**

CL1	Context and Character
CL2	New Buildings, Extensions and Modifications
CL3	Heritage Assets - Conservation Areas and Historic Spaces
CL5	Amenity
CP02	Places
CO5	Strategic Objective for Renewing the Legacy
CP07	Portobello/Notting Hill

**'Saved policies of the Unitary Development Plan adopted 25 May 2002**

CD72	Combined Shop Units
CD73	Resist Open Shopfronts
CD74	Shopfronts and Residential Access
CD63	Conservation Area Views

Weight was also given to relevant local Supplementary Planning Guidance/Documents and Statements, including: Design+Cons of Shopfronts+Shopping Streets adopted May 1995, Ladbroke adopted 10 April 1989, Shopfront Design Guide adopted 25 November 2011. These documents were prepared in line with Government guidance and adopted following public consultation. The material circumstances of the case, including site history, location, and impact on amenity were considered. In addition, consideration was given to the results of public consultation.

The proposed shopfronts and side flank wall, by virtue of their materials and detailed design, are considered to preserve and enhance the character and appearance of the Conservation Area and a condition is recommended to ensure that the existing unlawful shopfronts are removed and replaced within six months of the date of decision. It is considered that the proposals are acceptable in terms of their impact on the street scape and the pedestrian flows of both Westbourne Grove and Portobello Road and are considered to be compliant with the appropriate Development Plan policies.

The full report is available for public inspection at the Planning Information Office, Ground Floor, Town Hall, Hornton Street, London, W8 7NX.