

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

**APP NO. PP/11/03409/Q21**

**PLANNING APPLICATIONS COMMITTEE 06/03/2012**

**AGENDA ITEM NO. N17**

**SITE ADDRESS**

**14 Upper Phillimore Gardens  
LONDON  
W8 7HA**

**APPLICATION DATED 17/10/2011**

**APPLICATION COMPLETE 26/10/2011**

**APPLICATION REVISED 31/01/2012**

**APPLICANT/AGENT ADDRESS**

**Mr R Torres  
Studio Indigo Ltd  
37 Chelsea Wharf  
15 Lots Road  
LONDON  
SW10 0QJ**

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

<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>
10	17	0	0	0

**Applicant Indigo Capital Ltd**

**PROPOSAL: Construction of two storey basement extension beneath existing building with elevational alterations including installation of plant unit at main roof level and removal of central roof pitch.**

**RBK&C Drawing No(s):PP/11/03409 and PP/11/03409/A**

**Applicant's Drawing No(s): A1-020 P3, A2-200 P3, A2-210 P6, A2-220 P6, A2-230 P5, A2-240 P5, A2-250 P5, A2-260 P5, A2-270 P5, A3-210 P5, A3-220 P6, A3-230 P5, A3-240 P5, A4-210 P5, A4-220 P5, A4-230 P5, A4-240 P5, A4-250 P5, A2-110 P3, A2-120 P3, A2-130 P3, A2-140 P3, A2-150 P3, A2-160 P3, A3-110 P3, A3-120 P3, A3-130 P3, A4-110 P3, A4-120 P3, A1-010 P3, A2-010 P3, A2-020 P3, A2-030 P3, A2-040 P3, A2-050 P3, A2-060 P3, A3-010 P3, A3-020 P3, A3-030 P3, A3-040 P3, A4-010 P3 and A4-020 P3.**

**RECOMMENDED DECISION: Grant planning permission**

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

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (C001)**  
*Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions. (R001)*
  
2. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on submitted plans , A1-020 P3, A2-200 P3, A2-210 P6, A2-220 P6, A2-230 P5, A2-240 P5, A2-250 P5, A2-260 P5, A2-270 P5, A3-210 P5, A3-220 P6, A3-230 P5, A3-240 P5, A4-210 P5, A4-220 P5, A4-230 P5, A4-240 P5, A4-250 P5, A2-110 P3, A2-120 P3, A2-130 P3, A2-140 P3, A2-150 P3, A2-160 P3, A3-110 P3, A3-120 P3, A3-130 P3, A4-110 P3, A4-120 P3, A1-010 P3, A2-010 P3, A2-020 P3, A2-030 P3, A2-040 P3, A2-050 P3, A2-060 P3, A3-010 P3, A3-020 P3, A3-030 P3, A3-040 P3, A4-010 P3 and A4-020 P3. (C068)**  
*Reason - The details are considered to be material to the acceptability of the proposals, and for safeguarding the amenity of the area. (R068)*
  
3. **All work and work of 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)*
  
4. **The development hereby permitted shall not be implemented until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The statement should include:**
  - **routeing of demolition, excavation and construction vehicles;**
  - **access arrangements to the site;**
  - **the estimated number of vehicles per day/week;**
  - **details of any vehicle holding area;**
  - **details of the vehicle call up procedure;**
  - **estimates for the number and type of parking suspensions that will be required;**
  - **details of any diversion, disruption or other abnormal use of the public highway during demolition, excavation and construction works;**
  - **a strategy for coordinating the connection of services on site with any programmed work to**

**utilities upon adjacent land;**

- **work programme and/or timescale for each phase of the demolition, excavation and construction works; and**

- **where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.**

**The development shall not be carried out except in accordance with the approved Construction Traffic Management Plan.**

*Reason - In the interest of highway safety and to safeguard the amenity of the area and to comply with the Subterranean Development SPD and policy CT1 and CL5.*

5. **The development hereby permitted shall not commence until a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) has been appointed to supervise the construction works throughout their duration and their appointment confirmed in writing to the Local Planning Authority. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works will cease until a replacement chartered engineer of the afore-described qualification has been appointed to supervise their completion and their appointment confirmed in writing to the Local Planning Authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to this Authority in accordance with this Condition. (C106)**

*Reason - The details are considered to be material to the acceptability of the proposal, and for safeguarding the amenity of neighbouring residential properties and to comply with the Subterranean Development SPD and policy CL2. (R106)*

6. **No development shall be carried out until such time as the person carrying out the work is a member of the Considerate Constructors Scheme and its code of practice, and the details of the membership and contact details are clearly displayed on the site so that they can be easily read by members of the public. (C109)**

*Reason - To limit the impact of construction upon the levels of amenity that neighbouring occupiers should reasonably expect to enjoy and to comply with the Subterranean Development SPD and policy CL5.*

7. **The subterranean development hereby approved shall not be used or occupied until the entire dwelling has achieved an EcoHomes rating of Very Good with 40% of the credits achieved under the Energy, Water and Materials sections and a post construction review Certificate for the dwelling has been issued certifying that a Very Good rating has been achieved. (C110)**

*Reason - To secure mitigation for the environmental impact of the subterranean development and to comply with policy CE1 of the Core Strategy.*

8. **Full particulars of the following shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted commences and the development shall not be carried out otherwise than in accordance with the details so approved and shall be so maintained:**

**(a) Details at 1:20 including design, materials and finishes of the proposed front railing enclosure and plinth;**

**(b) Details of enclosure or screening to rear rooflight;**

**(c) Details of enclosure or screening to all plant units located at main roof level;**

**(d) Details of the glazing and method of fixing shut/opening for all proposed side elevation windows.**

**(C011)**

*Reason - The particulars hereby reserved are considered to be material to the acceptability of the development, and the Local Planning Authority wishes to ensure that the details of the development are satisfactory. (R011)*

9. **Full particulars of the following shall be submitted to, and approved in writing by, the Local Planning Authority before the development hereby permitted commences, and the development shall not be carried out otherwise than in accordance with the details so approved:**

**(a) a landscaping and tree/shrub planting scheme. (C016)**

*Reason - To ensure the appearance of the development is satisfactory, and to safeguard the amenity of the area. (R016)*

10. **All planting, seeding and turfing, forming part of the approved details of landscaping, shall be carried out in the first planting and seeding season following the first occupation of the development or the completion of the development whichever is the sooner and any trees or plants which, within a period of 5 years from the first planting and seeding season referred to above, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives its written consent to any variation. (C018)**  
*Reason - To protect the amenity of the area. (R018)*
11. **Any trees existing on the site and those adjacent and on the public highway at the date of this permission shall be protected against damage, as per Arboricultural Report of Tree Projects dated 13/10/11, throughout the period of building and other operations pursuant to this permission, including site preparation. (C020)**  
*Reason - To ensure that the trees are adequately protected and to safeguard the amenities of the area. (R020)*
12. **Noise emitted by the four air conditioning condensing units located on the roof of the property hereby permitted shall not increase the existing lowest LA90(15min) background noise level at any time when the plant is operating. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with manufacturers instructions and as necessary to ensure that the requirements of the condition are maintained. The use shall not commence until a noise survey and report has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Director of Environmental Health. 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. (C57d)**  
*Reason - To protect the amenities of nearby occupiers. (R57d)*

13. **All new plant and equipment hereby permitted 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. (C57f)**  
*Reason - To protect the amenities of nearby occupiers.*
14. **The window(s) located on the flank elevation hereby permitted shall be constructed using only obscured glazing, fixed shut and so maintained. (C093)**  
*Reason - To safeguard the amenity of neighbouring property, and in particular to prevent overlooking. (R091)*

## **INFORMATIVES**

- 1 I09 Variations due to Building Regs.
- 2 I10 Attention to Conditions
- 3 I11 Care - Conservation Area
- 4 Thames Water requests that the Applicant should incorporate within their proposal protection to the property by, for example, the use of a non-return valve or other suitable device to avoid the risk of backflow at a later date, on the assumption that the sewerage network may surcharge to ground level during storm conditions.
- 5 I67A Construction Management
- 6 I68 TFL - Olympic Route Network
- 7 You are advised that it is the duty of the occupier of any domestic property to take all such measures available to him/her as are reasonable in the circumstances to secure that any transfer of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes. This includes waste materials produced as a result of building works. You may check whether your waste carrier is licensed on the DEFRA website. (I61)

## **1.0 SITE**

- 1.1 The property is a four storey (plus basement) semi-detached building situated on the South side of Upper Phillimore Gardens, close to the junction with Argyll Road. The property is a single family dwellinghouse.
- 1.2 The property is not listed, but is located within the Kensington conservation area.

## **2.0 PROPOSAL**

- 2.1 Planning permission is sought for the following:

-the construction of two basement floor levels, approximately 7m in depth, providing 280 sq.m of floorspace, beneath the footprint of the building, approximately 50% of the rear garden and 85% of the front garden, exhibiting a metre of topsoil as coverage above. Above the garden area basement, one rooflight is to be installed.

-the installation of four plant units centrally located at main roof level, replacing a removed pitched roof.

-the detailed design alteration of an existing roof lantern located to the centre of the main roof.

-the installation of four upper floor level timber sash windows located on the flank elevation facing No.16 Upper Phillimore Gardens

-extension of the front lightwell away from the front facade

-the installation of a rooflight within the extended front lightwell.

- 2.2 An amended plan has been submitted following Officer advice which now reflects the appropriate alterations to the character and appearance of the building, including the submission of accurate drawings, the alteration of fenestration details, revision of the EcoHomes assessment and the alteration of the construction method statement relating to the retention of the building's facades.

- 2.3 It is considered that, in this particular instance, the replacement of all existing single glazed timber framed windows to the front and rear elevation with double glazed timber framed windows depicted in the drawings submitted would constitute permitted development by virtue of Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) would not, therefore, require planning permission.

- 2.4 In consideration of the information submitted, given that the extent of demolition would be limited to the removal of a part of the remaining central roof pitch, the proposal would not amount to demolition requiring conservation area consent.
- 2.5 The removal of the internal floor levels does not require planning permission.

### **3.0 RELEVANT SITE HISTORY**

- 3.1 Planning permission was granted in 1977 (TP/77/0724) for the erection of a first floor rear balcony.
- 3.2 Planning permission and conservation area consent were granted in 1993 (TP/93/0356 & TP/93/0357 ) to convert five self-contained residential units into a single family dwelling with associated alterations to the roof and elevational alterations at rear basement level.
- 3.3 Planning permission was granted in 2006 (PP/06/00412) for rear extensions at basement and rear roof levels, replacement of front dormer, roof alterations including the installation of a 600mm satellite dish.
- 3.4 A Certificate of Lawful Proposed Development was issued in 2009 (CL/09/02612) for the installation of two timber framed French doors, replacing two existing timber framed windows located on the rear elevation at basement floor level.
- 3.5 Planning permission was granted in 2009 (PP/09/2641) for alterations to the existing balcony and associated access at rear ground floor level.

### **4.0 PLANNING CONSIDERATIONS**

- 4.1 The main issues for consideration are the impact of the proposal upon the character or appearance of the building and the surrounding conservation area and the impact that the proposal may have upon the amenity of the occupiers of the neighbouring properties as well as the usual subterranean development planning considerations including flooding and structural stability.
- 4.2 The relevant policies against which to assess this proposal are contained within the Core Strategy of the Local Development Framework, as well as certain policies 'saved' from the Unitary Development Plan 2002 (as amended 28<sup>th</sup> September 2007).

The relevant Core Strategy policies are:

- CL1 (Context and Character)
- CL2 (New Buildings, Extensions and Modifications)



CL3 (Historic Environment)  
CL5 (Amenity)  
CL6 (Small-scale Alterations and Additions)  
CT1 (Improving alternatives to car use)  
CR6 (trees and landscape)  
CE1 (Climate change)  
CE2 (Flooding)  
CE6 (Noise and Vibration)

The relevant 'saved' policies to this application are as follows;

CD44 & CD45 (roof level alterations)  
CD63 (views around the Borough)

- 4.3 Also for consideration is 'The London Plan' 2011. In this particular instance, there are no specific Policies relevant to this application contained within this plan.
- 4.4 The Kensington conservation area proposal statement (CAPS) has also been given weight, as has Supplementary Planning Guidance, the Trees and Development SPD, Transport SPD and Subterranean Development SPD.
- 4.5 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 S.38(6) of the Planning and Compulsory Purchase Act 2004, the 'Development Plan' now comprises the Core Strategy, the London Plan 2011, plus relevant 'saved' policies from the UDP.

### **Subterranean Works**

- 4.6 The proposal seeks the construction of two basement floor levels, beneath the footprint of the building, approximately 50% of the rear garden and 85% of the front garden, exhibiting a metre of topsoil as coverage above.
- 4.7 Policy CE1 of the Core Strategy requires that the entire dwelling, following the subterranean development, meets the EcoHomes Very Good standard (at design and post construction stage). An acceptable EcoHomes report has been provided and an appropriate condition is recommended to ensure the requisite level of performance is reached.
- 4.8 In respect of construction issues, conditions may be used to supplement powers under other legislation such as the Environmental Protection Act, Highways Acts, and Control of Pollution Act. Conditions are recommended in this case in order to minimise the impact of the construction process on the amenities of local residents, and function of the local highways, as far as can be reasonably achieved under the Town and Country Planning Act.

- 4.9 The structural engineer's information provided complies with the requirements laid out in the 'Subterranean Developments' SPD. Issues relating to the structural stability of the basement are dealt with under the Building Regulations and the stability of adjoining land primarily dealt with under the Party Wall Act 1996.
- 4.10 In consideration of the CS Policies CE2, taking into account that the proposal would be beneath the existing footprint of the building and a hardstanding area to the rear, it is concluded that there would be little likelihood of the proposed basement works exacerbating local draining issues or influencing the frequency or gravity of flooding incidents in the locality.
- 4.11 PPS25 'Development and Flood Risk' states that applicants must avoid inappropriate development in areas at risk of flooding and must reduce the adverse consequences of flooding on people, property, infrastructure, habitats and statutory sites. The proposal includes a single level of basement accommodation to the front and rear. The Environment Agency have not designated a flood risk area which includes or is near to this site and as such the proposed development would not contravene planning policy in respect of a risk of flooding.
- 4.12 In accordance with the 'Subterranean Developments' SPD, conditions are recommended to ensure that a suitably qualified engineer is employed to carry out the works and that a construction traffic management plan is submitted for approval to reduce the impact of the construction works on local traffic. Given the proximity of the site to adjoining properties it is also recommended that a Condition is imposed to ensure that implementation of the development is in accordance with the 'Considerate Constructors' scheme.
- 4.13 This particular proposal is, therefore, considered to comply with the Council's CS Policies, in particular CL2, CE1, CE2 and CE6 and the Subterranean SPD.

### **Surrounding Townscape**

- 4.14 It is considered the installation of new upper floor level timber sash windows located on the flank elevation facing No.16 Upper Phillimore Gardens would replicate the same materials, dimensions and pattern of glazing bars as the existing windows. These would be sited on the side elevation where there are at best, oblique views of these window locations from the surrounding area.
- 4.15 With regard to the enlarged front lightwell, the proposed alteration and associated rooflight are considered modest in extent and appearance and would not harm the character or appearance of the building or the terrace of which it forms part or the surrounding Conservation Area.

- 4.16 The proposed plant units, by virtue of their location at main roof level set behind the adjoining roof pitches would be significantly concealed from both public and private views. Where external alterations can be unsightly by virtue of their exposed location or prominent position, it is considered the proposed units would be incorporated in a sympathetic and discreet manner.

### **Amenity**

- 4.17 With regard to amenity the proposal would not result in a loss of sunlight or daylight nor would it present any increased sense of enclosure to the adjoining or surrounding properties. In the interests of privacy, the windows located on the flank elevation are to be obscurely glazed and fixed shut by way of Condition requiring these details.
- 4.18 With regard to the proposed plant units located at main roof level, the Director of Environmental Health has commented on the application, and raises no objections to the proposal, subject to a number of specific conditions being attached which control noise and vibration levels. The proposal is, therefore, considered to comply with the Council's CS Policies CL5 and CE6.
- 4.19 With regard to the possible impact of the proposal upon the tree located in the rear garden, its retention and protection during the construction works shall be maintained by Condition, which would comply with the Council's CS Policies, in particular Policy CR6.
- 4.20 The Director of Transportation and Highways has commented on the application, and raises no objection to the proposal subject to a Construction Traffic Management Plan. The proposal is, therefore, considered to comply with the Council's CS\_Policy CT1.

## **5.0 PUBLIC CONSULTATION**

- 5.1 Neighbouring occupiers were notified of the proposal and a site notice was displayed outside the building and advertisement placed in the press. Letters of objection have been received. The representations object on the grounds that the proposed development would result in:

### **Harm to the character and appearance of the building, terrace and surrounding conservation area**

- 5.2 This particular issue has been addressed in Section 4.0 of this report. Previous appeal decisions have confirmed that the size of subterranean extensions cannot affect the character or appearance of a conservation area. It is only the external manifestations of subterranean accommodation which can affect the character or appearance of the conservation area.

### **Harm to structural stability of adjoining properties**

- 5.3 The application was submitted with a construction method statement prepared by a qualified structural engineer. That statement is sufficient to comply with the Council's policies to demonstrate that the subterranean development can be carried out safely. The Party Wall Act contains the relevant provisions in respect of damage to neighbouring property and adjoining owners rights. A condition is recommended to ensure a suitably qualified structural engineer is appointed to supervise the works.

### **The proposed development will result in noise and disturbance**

- 5.4 Where appropriate, planning Conditions can be used to supplement powers under other legislation such as the Environmental Protection Act, Highways Acts, and Control of Pollution Act. Such Conditions are recommended in this case, in order to minimise the impact of the construction process on the amenity of local residents, and function of local highways, as far as can reasonably be achieved under the Town and Country Planning Act. Previous appeal decisions have not accepted such impacts as a ground for refusing planning permission as other legislation exists to deal with these matters including the Control of Pollution Act 1974 and the Environmental Protection Act 1990. In respect of construction traffic it is recommended that details are secured by way of the imposition of a condition requiring the submission and approval of a Construction Traffic Management Plan. It is also recommended that the person carrying out the works is a member of the National Considerate Constructor's scheme.

### **Inaccurate EcoHomes Assessment**

- 5.5 This particular issue has been addressed in Section 2.0 of this report.

### **The proposed development would increase the risk of flooding to surrounding properties**

- 5.6 The site does not lie within a designated flood risk area and the proposed subterranean accommodation is contained mainly under the main house. Part of the proposed basement protrudes beyond the existing front and rear building line but sufficient garden is left at the front and rear for natural drainage of surface water. It is not therefore considered that a risk of flooding would warrant the refusal of planning application. In this respect it is considered that the development is compliant with the relevant policies.

### **Demolition of a building in a conservation area**

- 5.7 This particular issue has been addressed in Section 2.0 of this report. It is no longer proposed to demolish the building and conservation area consent is not required.

## **6.0 CONCLUSION**

6.1 The proposed two storey basement floor level and associated elevational and roof alterations, by reason of their detailed design, location and position would preserve the character and appearance of the conservation area. It is also concluded that the structure would not impact harmfully upon levels of amenity enjoyed by residents of neighbouring property. Therefore, it is concluded that the development would be in accordance with the relevant policies of the development plan.

## **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/11/03409 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 09:30:10

**Construction of two storey basement extension beneath existing building with elevational alterations including installation of plant unit at main roof level and removal of central roof pitch.**

**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
CL6	Small-scale Alterations and Additions
CR6	Trees and landscape
CE1	Climate Change
CE2	Flooding
CE6	Noise and Vibration
CT1	Improving alternatives to car use

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

CD44	Resist Additional Storeys and Roof Level Alterations
CD45	Permit Additional Storeys and Roof Level Alterations
CD63	Conservation Area Views

Weight was also given to relevant local Supplementary Planning Guidance/Documents and Statements, including: Kensington adopted 9 January 1995, Transport adopted 10 December 2008, Subterranean Development adopted 26 May 2009, Trees and Development adopted 20 April 2009. 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 two storey basement floor level and associated elevational and roof alterations, by reason of their detailed design, location and position would preserve the character and appearance of the conservation area. It is also concluded that the structure would not impact harmfully upon levels of amenity enjoyed by residents of neighbouring property. Therefore, it is concluded that the development would be in accordance with the relevant policies of the development plan.

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