

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 09/04/2020

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/19/08498	Agenda Item:	N16		
Address:	The Old Dance Studio, 42D Linden Gardens, LONDON, W2 4ER				
Proposal:	Rearrangement of internal layout and new a/c service runs; new windows and doors within enclosed courtyard; formation of two infill extensions at first floor above entrance hall to north and study to the south side; removal of roof lantern, installation of a/c condenser unit within acoustic enclosure and rooflights at roof level, northern side.				
Applicant:	Mr AFoglio				
Agent:	Mr A Frendo Savills				
Properties notified:	Objections:	Support:	Comments:	Petition:	
61	3	0	1	0	
Listed building:	Grade II				
Conservation area:	Pembridge				

1. Summary

- 1.1 The proposals would preserve the special architectural and historic interest, character and significance of the Grade II Listed Building and the character and appearance of this part of the Pembridge Conservation Area and would not result in material harm to the living conditions of occupiers of neighbouring properties,

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 42 Linden Gardens belongs to two pairs of listed semi-detached villas (Nos. 38 – 42 even), built in the 1820s as part of a larger group. Their architectural special interest resides in the quality of their design as Regency middle class dwellings and the surviving details in the form of windows, doors, pediments, and bays. Their their historic interest arises from the evidence they provide of the development of this part of the Ladbroke Estate from rural

to suburban.

- 3.2 These characteristics mean that the group of villas make a positive contribution to the character and appearance of the Pembridge Conservation Area, which is largely characterised by its high quality traditional housing.
- 3.3 Nos. 40 and 42 are explicitly referenced in the statutory list description as being included due to their group value with the more complete pair of Nos. 36 – 38. No. 42 has undergone a complicated series of extensions and alterations during the nineteenth and twentieth centuries, which are largely taken up by the dwelling at 42D. As part of the listed building, some interest resides in their fabric and planform. Of the extensions, the 1863 element, which more closely reflects the design of the core building, is perhaps the most interesting, but all provide evidence of the evolving use of the building over time including for studios and gymnasium.

4. The proposal and any relevant planning history

4.1 Planning permission and listed building sought for:

- internal alterations
- two infill extensions at first floor level
- installation of an air conditioning unit within an enclosure
- installation of rooflights
- new windows and doors within enclosed courtyard

Reference	Description	Decision
PP/13/00520 & LB/13/00521	Replacement of water tank to roof and external duct.	Granted 14/03/2013
PP/13/02265 & LB/13/02266	Replacement of water tank to roof and external duct.	Granted 12/06/2013
PP/18/02296	Replacement of boundary wall and railings surrounding land adjacent to 42 Linden Gardens.	Granted 22/06/2018

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 2019
Conservation Area	CL3, CL11
Listed building	CL4
General townscape	CL1, CL2, CL6, CL8
Living conditions	CL5, CE6

These policies can be read online at:

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

Other local strategies or publications

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

- Pembridge Conservation Area Appraisal
- Noise

These documents can be read online at:

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 preserve or enhance the special interest of the listed building, and the character or appearance of the townscape and conservation area; and
- ii Whether the proposals would preserve the living conditions of neighbouring occupiers.

Listed building and conservation area

Internal alterations

6.2 Removal of the partitions within the 1878 extension, which currently create a jumble of small spaces, is welcomed. Removal of most of the rear wall to realign the division with the room beyond and create double opening does entail the loss of original fabric but would recreate a larger and more coherent space. The submitted drawings show the retention of some wall nibs, including the north-east and south-east corners, which would mark out the original location and alignment of the walls of this element of the building.

6.3 Extensive alterations have previously been made to other internal partitions within the building at ground and first floor level. The floorplans now proposed, including the relocation of staircases to replace the existing, non-original staircases, would be a continuation of this tradition of adaptation to contemporary uses. This would have only a limited additional impact on the significance of the listed building overall, and not a harmful one.

First floor infill extension (southern)

6.4 At first floor level, it is proposed that the existing canted glazed infill adjoining the courtyard will be replaced with a two-storey brickwork extension. This part of the building was originally part of the 1863 extension, but has been extensively altered over time. The extension would be primarily facing inwards to the courtyard and would provide a more coherent design than existing situation. Where there would be removal of original fabric belonging to the 1873 extension, this would be counterbalanced through the retention of nibs to show the original location and alignment of walls. The infill extension would be acceptable.

Bedroom extension (northern)

- 6.5 The first-floor extension on the northern side of the building would replace a glazed lantern set above the long entrance corridor. This is evidently a modern feature of limited interest and the proposed extension would be single-storey, modest in its overall size and constructed with materials to match. The extension would be acceptable.

Air conditioning unit

- 6.6 The principle of placing an air conditioning condenser unit in the proposed roof location is acceptable. However, details of the appearance of the enclosure have not been provided, and to ensure the appearance would preserve the character and appearance of the building and this part of the conservation area, condition 3 is necessary to secure further details of the proposed unit.

Rooflights

- 6.7 All proposed rooflights would be located at main roof level and would therefore be limited to views. Condition 4 has been recommended to ensure that the rooflights are set flush with the plane of the roof in which they sit.

Windows and doors

- 6.8 The proposed new glazed doors and window to the northern and eastern side of the courtyard would replace more recent or modern elements of the building and would be acceptable. Condition 3 has been recommended and necessary to ensure that the character and the appearance of the property as well as the special architectural or historic interest and heritage significance of the building would be preserved.

Living conditions

- 6.9 The two proposed extensions at first floor level would infill existing voids within the building. Firstly, the proposed extension along the building's southern elevation would have limited impact on the amenity of the immediate adjacent property. This is because the extension proposed is of a modest proportion with a relatively large degree of separation between the development and the neighbour's habitable rooms. The extension would be more prominent from within the neighbour's garden, however, the sense of openness enjoyed by occupants within this garden space would not be so significant to materially impact the living conditions of those occupiers. The extension would not introduce any new views into neighbouring properties given that no outward facing windows are to be introduced and would therefore preserve existing privacy.
- 6.10 The building's northern elevation is more sensitive to development given that it is closely sited to the terrace buildings along Pembroke Square. The lower levels of this terrace, ground and first floor, are particularly sensitive as their outlook is already partly confined by the application site. The proposed extension would in-fill an existing void that to some degree contributes towards these neighbours' sense of openness. However, the increased bulk to this part of the building is relatively modest, and would not be overbearing or materially impact upon the sense of enclosure experienced by neighbours.
- 6.11 The proposed water tank and air conditioning unit enclosure would be positioned to the side of the extension; given that these are two separate additions, they would not add a significant amount of volume and therefore would not be detrimental to the living conditions of neighbouring occupiers.
- 6.12 In terms of noise from the proposed air conditioning unit, the submitted noise assessment demonstrates that the noise from the air conditioning unit would not exceed the relevant noise criteria agreed by the Council. Therefore, the unit would not cause undue noise disturbance. Condition 6 is necessary to ensure that the unit adheres to the required noise levels and in the event it does not, it is turned off until serviced or repaired or altered to be

able to comply, thereby avoiding neighbours having to endure noise disturbance whilst any problem was being resolved. Together the recommended conditions provide a very high degree of protection to neighbours from potential noise disturbance.

- 6.13 In terms of daylight/sunlight, any impacts to neighbours along Pembridge Square are likely to be negligible because of the modest nature and positioning of the additional bulk in relation to neighbours. It is very unlikely there would any noticeable impact and there would not be a material worsening of the levels retained by neighbours.
- 6.14 Lastly, while there would be a new window opening, this would not give rise to any harmful views into neighbouring buildings or private spaces, given the new openings create angled sightlines only, and there would be no impact from overlooking on neighbours privacy.

Issues and balancing

- 6.15 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 and to the need for special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, under s.16 and s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.
- 6.16 Subject to the necessary recommended conditions, the proposals would be sympathetic to the character and the appearance of the property. The proposed extensions, internal works would preserve the special architectural, historic interest and heritage significance of the building, in accordance with Local Plan policies CL1, CL2, CL3, CL4, CL6, CL8, and CL11.
- 6.16 Subject to the recommended conditions, the proposed works would also preserve the living conditions of neighbouring occupiers in regards to loss of privacy/overlooking, loss of sunlight/daylight, sense of enclosure, noise and disturbance, in accordance with Local Plan policies CL5, CE6 and the Noise SPD.

7. Community Infrastructure Levy Information

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

8. Consultations carried out

Comments from interested parties

Sixty-one nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 03/01/2020. A statutory notice advertising the application was posted near the site on 03/01/2020.

Three letters were received objecting to the application, summarised as:

	Comment	Response
1	Noise from existing extractor fan (3)	The extractor fan does not form part of this application, and therefore, has not been assessed under these applications.
2	Light spillage/pollution from the glazed lantern rooflight (2)	Replacing the lantern rooflight with the proposed extension would eliminate the light

		spillage.
3	There has been no attempt made by the applicant to engage with us (2)	This is not a material planning consideration.

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Director of Environmental Health	No objection, subject to recommended conditions.	Conditions 6 and 7
Conservation and Design Officer	No objections, subject to recommended conditions.	Condition 3

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 X001, 002, D100, D101, D102, D201, D202, D203, D253, D254, D255, D256, P100 Rev B, P101 Rev B, P102 Rev B, P201, P202, P203, P251, P252, P253, P254, P255, P256

Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.

3. Submission of details (Full PP)

No development shall commence until full particulars of the following have been 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) Scale of 1:20 joinery details including cross-section (vertical and horizontal) and elevation of all new external doors and windows, in timber, with a painted finish.

(b) Siting, dimensions, design and materials of the roof-mounted air conditioning condenser unit and its enclosure.

Reason - To accord with the development plan by ensuring that the character and appearance of the area are preserved and living conditions of those living near the development suitably protected. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Development Plan.

4. Conservation rooflights

The rooflights shall be of a traditional conservation type, flush with the roof and slim framed, and so maintained.

Reason - To preserve or enhance the appearance of the building and the character of the area, in accordance with policies of the development plan in particular policies CL1, CL2 and CL3 of the Local Plan 2019.

5. Code of Construction Practice

No development shall commence until:

A) A Code of Construction Checklist and Site Construction Management Plan (SCMP) for the development have been approved, in writing, by the Council's Construction Management Team, and then

B) Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.

[The Council's Construction Management Team work independently of the

planning department. For further information regarding the Code and how the required details should be submitted to them, the Council's Construction Management Team can be contacted on email at: dehcmt@rbkc.gov.uk or tel: 020 7361 3002]

Reason - To mitigate the impact of construction work upon the levels of amenity that neighbouring occupiers should reasonably expect to enjoy, and to comply with the Basements and Transport and Streets SPDs and policies CL5, CT1, CE5 and CE6 of the Local Plan 2019. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Local Plan 2019.

6. Noise from building services plant and vents

Noise emitted by all building services plant and vents shall not exceed a level 10dBA below the existing lowest LA90(10min) background noise level at any time when the plant is operating, and where the source is tonal it shall not exceed a level 15dBA below. 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 the manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is determined by the local planning authority to be failing to comply with this condition, it shall be switched off upon written instruction from the local planning authority 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.

7. Anti-vibration mounts for air-conditioning/ extraction equipment

The plant shall not operate unless it is supported on adequate proprietary anti-vibration mounts to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter.

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.

8. Materials - To match existing

All work and work of making good shall be finished to match the existing exterior of the building in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.

Reason - To preserve or enhance the appearance of the building and the character of the area in accordance with policies of the development plan in particular policies CL1, CL2, CL3 and CL6 of the Local Plan 2019.

INFORMATIVES

- 1 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. A pre-application advice service is also offered.

The scheme was submitted in accordance with advice provided through pre-application discussions.

- 2 Your attention is drawn to the Conditions of this Permission and to the Council's powers of /PP/19/08498: 8

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.

- 3 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](#)

- 4 This property is within a Conservation Area. All building works should, therefore, be 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.
- 5 Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Director of Building Control, Town Hall, Hornton Street, W8 7NX should be consulted before works commence.
- 6 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).
- 7 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

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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) is available at www.rbkc.gov.uk/PP/19/08498 or electronically in our Customer Service Centre, Town Hall, Hornton Street.

Contact officer:

Ms. S. Iqbal

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