

<b>LDC (Proposed) Report</b>		<b>Application number</b>	2020/5984/P
<b>Officer</b>		<b>Expiry date</b>	
Elizabeth Beaumont		18/02/2021	
<b>Application Address</b>		<b>Authorised Officer Signature</b>	
42 Well Walk London NW3 1BX			
<b>Conservation Area</b>		<b>Article 4</b>	
Hampstead		Basements	
<b>Proposal</b>			
Erection of 2 single storey rear extensions to the dwellinghouse (Class C3).			
<b>Recommendation:</b>		<b>Refuse Certificate of Lawfulness</b>	

The application site contains a three-storey dwellinghouse with roof and basement accommodation. It is located on the eastern side of Well Walk, near Gainsborough Gardens in Hampstead Conservation Area.

On 4 May 2020 the Council granted a certificate in respect of proposed development, application reference 2020/1226/P (the "Original Certificate") pursuant to section 192 of the Town and Country Planning Act 1990 (the "1990 Act") at 42 Well Walk, London NW3 1BX (the "Property"), on the basis that it considered the proposed development to be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the "GPDO").

On 15 June 2020, a neighbour brought judicial review proceedings (the "Original Claim") challenging the Council's grant of the Original Certificate.

An order confirming the quashing of the Original Certificate was eventually made by Lang J on 7 December 2020.

As the decision was quashed, the application was refused on 02/02/2021.

On 30/12/2020 two applications 2020/5983/P and 2020/5984/P were granted certificates. These are considered to have been incorrectly approved by the Council. A neighbour brought judicial review proceedings and an order confirming the quashing of the Original certificates was made by Timothy Mould QC on 21 April 2021.

The certificate for application 2020/5983/P is being determined separately and is to be refused.

The application comprises two elements, a stepped rear extension and a further extension marginally separated from it by 0.1m at the largest point of the gap.

<b>Class A</b> The enlargement, improvement or other alteration of a dwellinghouse		
If yes to any of the questions below the proposal is not permitted development		Yes/no
A.1 (a)	Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)	No
Comments:		
A.1 (b)	As a result of the works, will the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)?	No
A.1 (c)	Will the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse?	No
A.1 (d)	Will the height of the eaves of the part of the dwellinghouse enlarged, improved or altered exceed the height of the eaves of the existing dwellinghouse?	No
A.1 (e)	Will the enlarged part of the dwellinghouse extend beyond a wall which: (i) forms the principal elevation of the original dwellinghouse; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse?	No
A.1 (f) (subject to A.1 (g))	Will the enlarged part of the dwellinghouse have a single storey and: (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse,	No

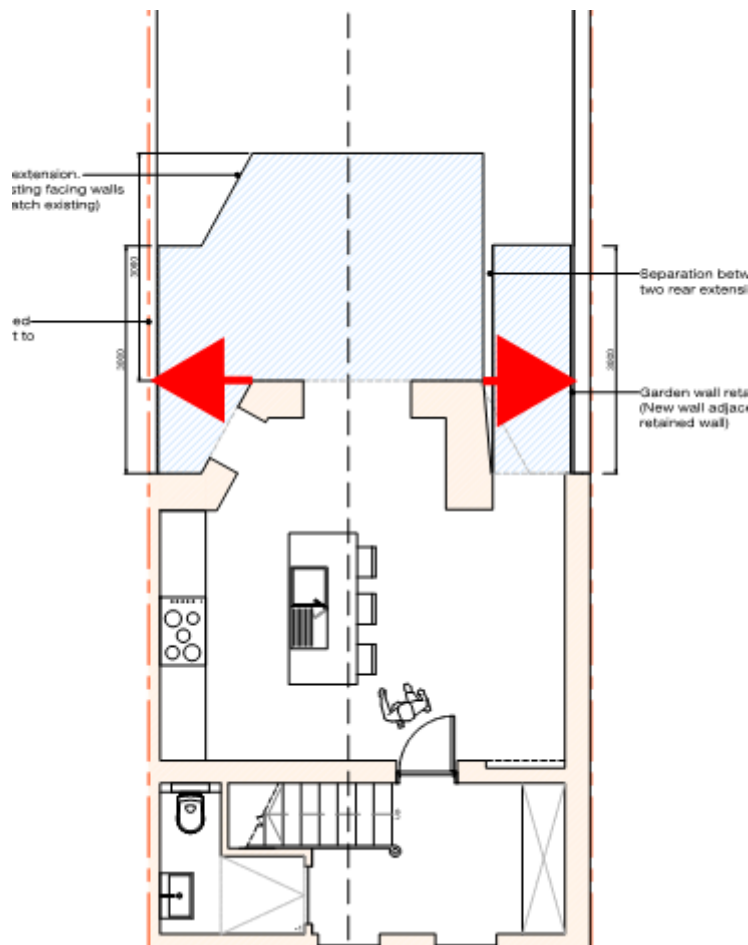
	or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height?	
A.1 (g) (until 30 <sup>th</sup> May 2019)	For a dwellinghouse not on article 2(3) land* nor on a site of special scientific interest, will the enlarged part of the dwellinghouse have more than one storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse; or (ii) exceed 4 metres in height?	N/A
A.1 (h)	Will the enlarged part of the dwellinghouse have more than a single storey and (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall the dwellinghouse?	No
A.1 (i)	Will the enlarged part of the dwellinghouse be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part exceed 3 metres?	No
A.1 (j)	Will the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse, and either (i) exceed 4 metres in height, (ii) have more than one storey, or (iii) have a width greater than half the width of the original dwellinghouse?	Yes
A.1(ja)	Will any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceed the limits set out in A.1(e) to A.1(j)?	No
A.1(k)	Would it consist of or include either: (i) the construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse?	No – existing balconies retained.
Is the property in a conservation area (article 2(3) land)? If yes to any of the questions below then the proposal is not permitted development		
A.2(a)	Would it consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles?	No
A.2(b)	Would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse?	Yes
A.2(c)	Would the enlarged part of the dwellinghouse have more than a single storey and extend beyond the rear wall of the original dwellinghouse?	No
A.2(d)	Would any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceed the limits set out in sub-paragraphs A.2(b) and A.2(c)?	No
Conditions. If no to any of the below then the proposal is not permitted development		
A.3(a)	Would the materials used in any exterior work (other than materials	Yes

	used in the construction of a conservatory) be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse?	
A.3(b)	Would any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse be— (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed?	N/A
A.3(c)	Where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, would the roof pitch of the enlarged part, so far as practicable, be the same as the roof pitch of the original dwellinghouse?	N/A

\* The land referred to as article 2(3) land is the land described in Part 1 of Schedule 1 to Town and Country Planning (General Permitted Development) (England) Order 2015/596 (National Parks, areas of outstanding natural beauty and conservation areas etc).

**Comments**

There is a cantered bay at the rear of the Property, which forms part of the original dwellinghouse, and which, in the Council’s view, incorporates side elevations. The extension would project beyond both of the side elevations as shown below. The extension is only marginally set in from the party wall and have a combined width of measuring 5.3metres wide. The rear elevation measures 5.8m.



A.1 (j) states will the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse and have a width greater than half the width of the original dwellinghouse. The 'enlarged part of the dwelling house' is the enlargement proposed by this application which incorporates both extensions, albeit they are separated by a gap of 0.1m. The Technical Guidance interprets 'the enlarged part of the dwellinghouse' as follows:

*"Enlarged part of the house"* - is the enlargement which is proposed to be carried out under Class A. The extensions would extend beyond walls forming side elevations of the original dwellinghouse, and the enlarged part of the dwelling would have a width greater than half the width of the original dwellinghouse contrary to A.1 (j).

Paragraph A.2(b) states that development buildings within a conservation area are not permitted "if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse".

### **Summary**

The application site is within a conservation area, the proposed extensions would extend beyond walls forming side elevations of the original dwellinghouse and the enlarged part of the house would have a width greater than half the width of the original dwellinghouse contrary to Schedule 2, Part 1 Class Paragraph A.1(j) and A.2(b) of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore are not considered to be permitted development.