

LDC (Proposed) Report		Application number	2021/5625/P
Officer		Expiry date	
Fast Track JL		12/01/2022	
Application Address		Authorised Officer Signature	
42 Well Walk London NW3 1BX			
Conservation Area		Article 4	
Hampstead		Basements	
Proposal			
Erection of a single-storey rear extension.			
Recommendation:		Grant Certificate of Lawful Development.	

Site Description:

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.

Planning History:

On 4 May 2020 the Council granted a certificate in respect of proposed development pursuant to application reference 2020/1226/P (the "Original Certificate") pursuant to section 192 of the Town and Country Planning Act 1990 (the "1990 Act") at the Interested Party's property 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.

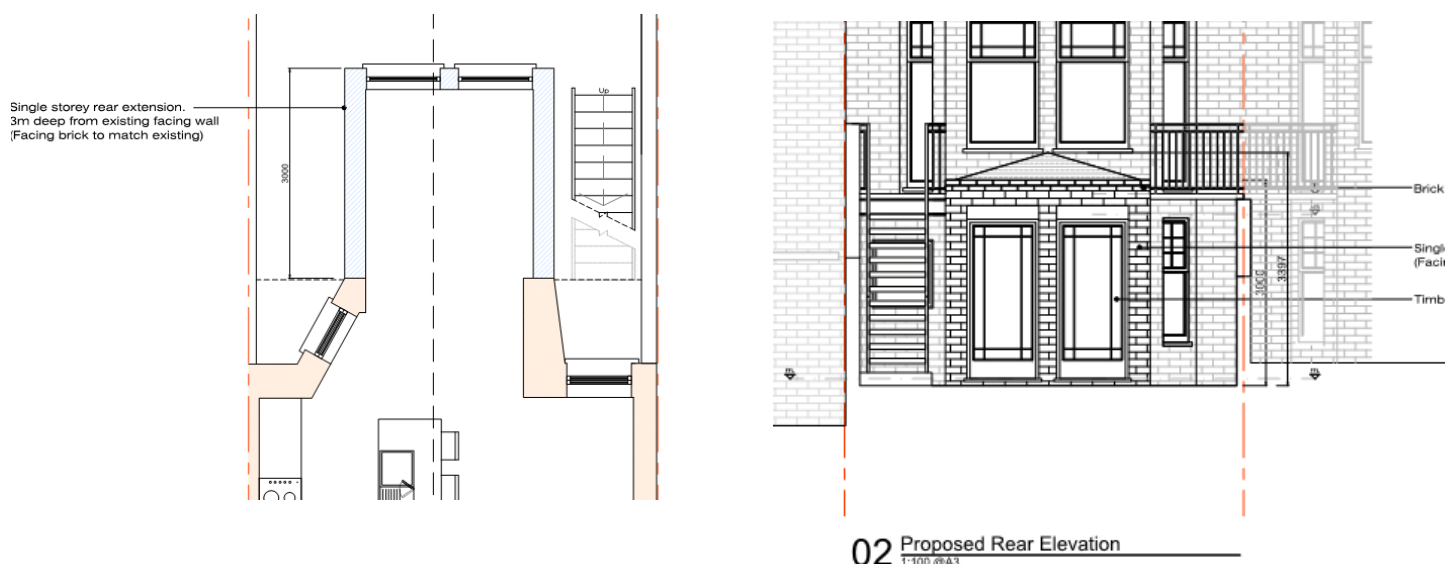
On 30/12/2020 two applications 2020/5983/P and 2020/5984/P were granted certificates. These are considered to have been incorreced approved by the Council. A neighbour brought judicial review proceedings and the Council did not contest this process. If the decisions were quashed and subsequently both applications were refused 21/05/2021

On 12/04/2021 the Council refused a certificate of lawful development for erection of centre single-storey rear extension and two single-storey rear extensions. The reason for refusal was:

The application site is within a conservation area, the proposed extensions adjacent to the boundaries would extend beyond walls forming side elevations of the original dwellinghouse and the proposed extensions have a combined 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.

Proposal:

The current application is for a single storey rear extension as shown on the floor plan and elevation below:



Consultation responses:


There is no statutory requirement to consult on lawful development certificate applications. Nevertheless, residents or local groups can comment or object to this type of application. Comments have been received on behalf of residents of the following addresses:

- 40 Well Walk, and
- 44 Well Walk.

The comments are summarised below along with the case officer's response:

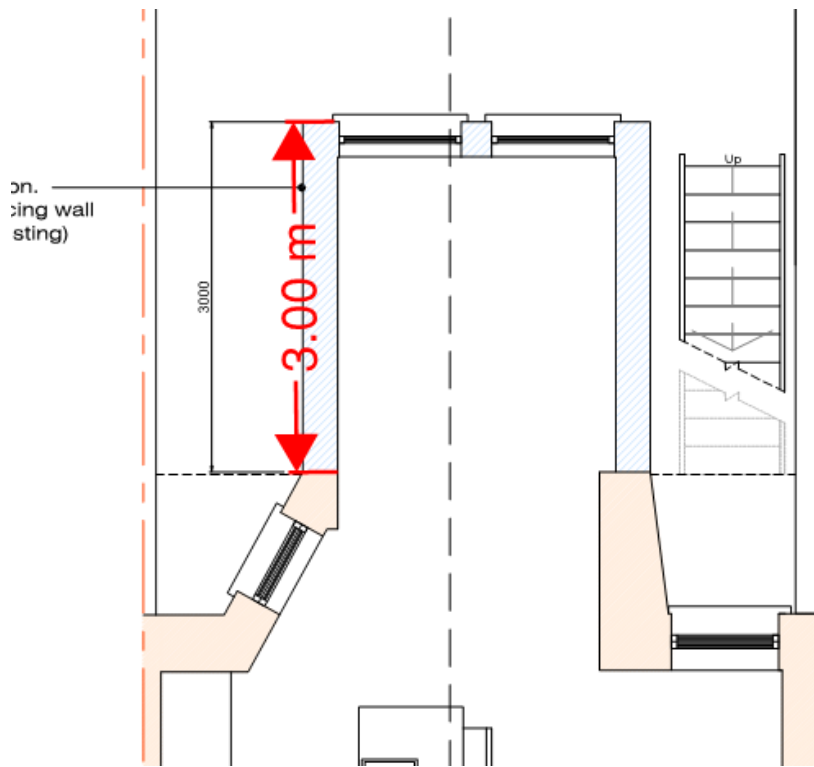
- The applicant does not intend to build out the extension, the permission, if issued, would be used as justification for permitting a larger extension under an application for planning permission.
- It is not the intention of permitted development rights to be used as a tool for negotiation on an application for planning permission.
 - *Case officer's response: Any application for full planning permission would be assessed on its own merits. This certificate of lawful development, would not set any precedent for further extension.*

- The application should include dimensioned drawings.
 - *Case officer's response: Applications for proposed certificates of lawful development should be accompanied by existing and proposed elevations, plans and sections (at a scale of 1:100). The submission meets this requirement, the scale of the drawing is stated and a scale bar is included. Some of the key dimensions are stated on the drawings, however the case officer must make an assessment based measurements taken in accordance with the stated scale.*
- The Counsel opinion does not add anything to the case.
 - *Case officer's response: Consideration is given to the legal opinion provided with the application, however the Council is making a full assessment of the case based on the legislation, guidance and case law. The legal opinion would not form part of the approved documents.*
- The ground conditions and risk of flooding needs consideration.
 - *Case officer's response: It is not possible to take into consideration the ground conditions or flood risk in this application. All that can be considered is whether the proposal meets the criteria of Schedule 2, Part 1 Class A of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*
- The full planning history is missing from the planning register on the website: 2020/5983/P and 2020/5984/P, both of which were quashed on appeal, are missing from the list of applications for 42 Well Walk.
 - *Case officer's response: This has been checked and the follow planning history is showing as can be seen in the image below this includes 2020/5983/P and 2020/5984/P :*

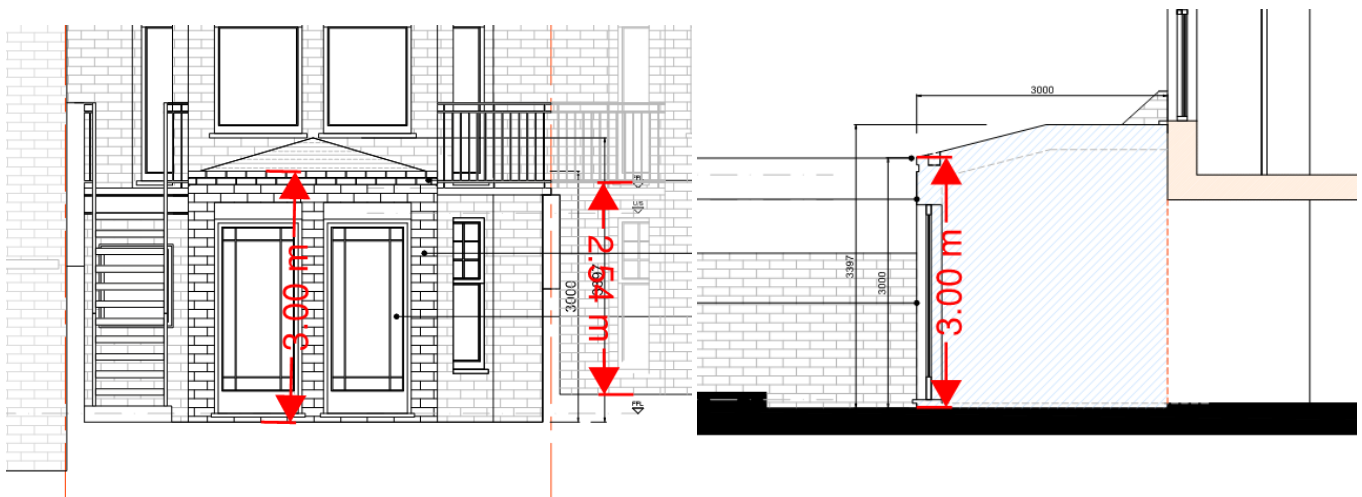


Application Number	Site Address	Development Description	Status	Date Registered	Decision
2021/5625/P	42 Well Walk London NW3 1BX	Erection of a single-storey rear extension.	REGISTERED	27-01-2022	
2021/0502/P	42 Well Walk London NW3 1BX	Erection of centre single-storey rear extension and two single-storey rear extensions.	FINAL DECISION	04-03-2021	Refused
2020/5984/P	42 Well Walk London NW3 1BX	Erection of 2 single storey rear extensions to the dwellinghouse (Class C3).	FINAL DECISION	29-12-2020	Refused
2020/5983/P	42 Well Walk London NW3 1BX	Erection of a single storey rear extension to the dwellinghouse (Class C3).	FINAL DECISION	29-12-2020	Refused
2020/1226/P	42 Well Walk London NW3 1BX	Erection of a single-storey flat-roofed rear extension.	FINAL DECISION	29-04-2020	Refused

- In Drawing 255 the doors to the new rear wall extend slightly beyond the point to which the 3-metre mark has been measured.
 - *Case officer's response: The case officer has measured the extension at the appropriate scale and it has a depth of 3 metres. An informative can be added to the decision to advise that the extension shall not extend beyond the original rear wall by more than 3 metres. See image below:*



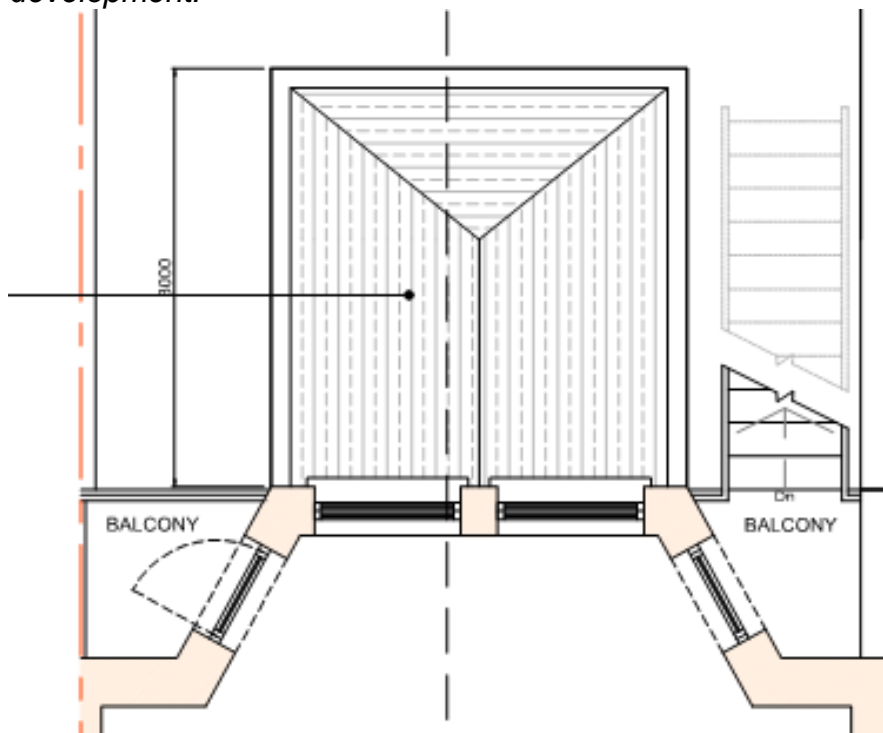
- The height of the extension varies on the section and rear elevation drawings and ground level and boundaries wall heights vary across and between no. 40, 42 and 44 Well Walk.
 - *Case officer's response: In accordance with the 'Permitted development rights for householders: technical guidance' the eaves height should be measured from ground level. Ground level is the surface of the ground immediately adjacent to the building in question. Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building. The height extension corresponds on both the section and rear elevation as shown on the images below:*



- There is insufficient information to suggest that the materials would comply with paragraph A.3.
 - *Case officer's response: The submitted drawing indicates that the materials would be brick to match that of the existing building and the proposed doors would be timber and designed to match those at the property. An*

informative to advise that materials should match that of the existing building will be included on the certificate.

- Confirmation is sought that no roof lights are proposed as part of this application. Concerns are raised about light pollution if the proposal did include roof lights.
 - *Case officer's response: As can be seen on the floorplans (and image below) which show the roof of the extension no roof lights are proposed. However, the inclusion of roof lights would be considered permitted development.*



- There is a discrepancy on the existing and proposed rear elevations which shows four window panes when there is in fact three window panes at the top floor of the property.
 - *Case officer's response: This is acknowledged. However, it does not affect the assessment of the application as permission is not sought for changes at upper floor levels. An informative advising of this will be included on the certificate.*

Assessment:

Class A 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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use)	No
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	No

	dwellinghouse?	
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, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height?	No
A.1 (g)	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?	No.
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.
A.a (l)	Was the dwellinghouse built under Part 20 of this Schedule (construction of new dwellinghouses)	No.
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	No

	the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles?	
A.2(b)	Would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse?	No
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 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?	Yes
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).

Conclusion:

In accordance with the criteria about the single storey rear extension complies with Schedule 2, Part 1 Class A of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore is considered to be permitted development, as such the certificate is recommended for approval.