

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 17/02/2026

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/25/02338	Agenda Item:	S122	
Address:	38-40 Burnaby Street, LONDON, SW10 0PL			
Proposal:	Replacement of windows to timber double glazed, and re-positioning of rear windows and the removal of a door and window (retrospective application)			
Applicant:	GAUVIN			
Agent:	Mr Coles Cubic Building Surveying 'Trading style of Cubic Property Consulting Ltd'			
Properties notified:	Objections:	Support:	Comments:	Petition:
9	9	0	1	0
Conservation area: Lots Village				

1. Summary

- 1.1 Given the nature of the works, which have already been carried out, they would preserve the character and appearance of the property and the Lots Village Conservation Area whilst maintaining the existing living conditions of the property and neighbouring buildings.
- 1.2 Objections received from interested parties have been taken into consideration and are addressed throughout the report and in Section 8. Where appropriate and necessary, conditions are recommended to address the concerns raised.

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 The subject site is on the northern side of Burnaby Street and is a joint dwelling within a small terrace group with differing design features throughout the group, built in the late 1800s.

- 3.2 Within the Lots Village Conservation Area Appraisal, the building is considered to make a

positive contribution to the historic and architectural character and appearance of the conservation area.

4. The proposal and any relevant planning history

- 4.1 Retrospective planning permission is sought for the replacement of windows and the re-position and re-sizing of two rear windows and the removal of a door and window. The windows have been replaced with the same style and material of traditional sash windows of the area. The re-design of two windows at the rear includes one window sill height being raised and marginally increased in width, and the other window would be resized making it slightly larger. The removal of the door and window has been replaced with existing brickwork.
- 4.2 The plans indicate that the property has been amalgamated, although there does not appear to be any planning history relating to an amalgamation. The drawings also show 2 HVAC units. For the avoidance of doubt, this application relates solely to the changes to the windows and door.
- 4.3 Officers visited the site on 25/07/25.
- 4.4 The relevant planning history is set out below:

Reference	Description	Decision
PP/04/00229	Retrospective application in connection with the roofing over small lightwell at rear of building.	Granted – 18/3/04

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
Conservation areas	CD3, CD4,
General townscape	CD1, CD2, CD10,
Living conditions	CD9
Fire Safety	CD16

- 5.2 These policies can be read online at:

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

Other local strategies or publications

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

- Lots Village Conservation Area Appraisal

- 5.4 This document can be read online at:

- Conservation Area Proposal Statements and Conservation Area Appraisals:
<https://www.rbkc.gov.uk/planning-and-building-control/heritage-and-conservation/conservation-areas/conservation-area>

6. Evaluation

- 6.1 Biodiversity net gain (BNG) has become mandatory from 12 February 2024 under the Environment Act 2021. The development would be below the threshold for BNG, and therefore, would be exempt.
- 6.2 The site is situated within Flood Zone 2 but given the nature of the proposal (replacement of windows and re-positioning of two rear windows), a Flood Risk Assessment (FRA) would not be required in accordance with Policy GB11.
- 6.3 The development would, given its minor nature, continue to ensure good living conditions are maintained for neighbouring occupiers. The resizing of the rear windows will not materially increase overlooking or result in a loss of privacy over and above what has existed before with the original window positions and sizes. The changes would not afford a greater level of overlooking, nor would it result in new views that may not have existed before. The works would therefore comply with policy CD9.
- 6.4 Policy CD16 of the Local Plan requires that all development proposals must demonstrate that they achieve the highest standard of fire safety and that minor applications must be supported by a Planning Fire Safety Strategy (PFSS). Alternatively, a Reasonable Exception Statement (RES) can be submitted to explain which policy criteria of the London Plan Policy D12A are not relevant to the development and why. A RES has been submitted under the current application and is satisfactory.
- 6.5 The decisive issue therefore is:
 - i Whether the proposal would preserve, or take opportunities to enhance, the character and appearance of the group of buildings and the Lots Village Conservation Area.

Character and Appearance

- 6.6 The replacement windows have been fitted into the existing openings, with no discernible change to the exterior appearance of the property.
- 6.7 The re-sizing of two rear windows is acceptable as they maintain the same design and materiality of the other windows. The subsequent repositioning of the windows - realised through the re-sizing, would not harm the character or appearance of the building. The removal of the existing door and window and replaced with brick improves the visual cohesion of the rear elevation.

Issues and balancing

- 6.8 The works would be a modest alteration to the building, that would respect the character of the building, and would preserve the character and appearance of the conservation area. No new sightlines or an increased degree of overlooking would arise and therefore good living conditions would continue for occupants and neighbouring occupants in compliance with policies CD1, CD2, CD4, CD9, CD10 and CD15 of the Local Plan 2024.
- 6.9 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 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

7. Community Infrastructure Levy

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

8. Consultations carried out

Comments from interested parties

- 8.1 11 nearby owners/occupiers were notified directly of the application.
The application was advertised in the Gazette on 20/06/25
A statutory notice advertising the application was posted near the site on 20/06/25
- 8.2 9 letters were received objecting to the application with several follow up objections, summarised as:

	Comment	Response
1	Lack of Consultation	Whilst the Council would encourage applicants to have discussions and conversations with neighbours about their proposals, there is no requirement for the applicant to inform neighbouring residents about speculative planning applications.
2	Unwanted surveillance and visual access into private dwellings	The redesign and marginal enlargement of two windows at ground level are likely to have a negligible impact on unwanted overlooking.
3	Impact to character and appearance	The replacement windows would be fitted into the existing openings, with no discernible change to the exterior appearance. The re-sizing of the two windows will maintain hierarchical design of the building. A condition will be recommended that the windows will be white painted sashed timber windows.
4	Noise and Light Pollution	The windows are unlikely to cause noise or light pollution.
5	Discrepancies with documentation	The documentation provided is sufficient to make a recommendation for the application.
6	Ongoing disruption due to construction and further ongoing construction impacts with this proposal	Any current construction on site is subject to previous controls and regulations that is not related to this application. The likely impact from construction due to this proposal would be minimal and subject to building regulations.

9. Recommended conditions if the application is granted

1. **Compliance with approved drawings**
The development hereby approved shall be carried out in complete accordance with drawing/document title number(s) C33237 - 103
C33237 - 201 A
C33237 - 202 A.
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
2. **Materials - To match existing**
All work and work of making good shall be finished to match the existing exterior of the building(s) 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/or the character of the area in accordance with policies of the development plan in particular policies CD1, CD2 CD3, CD4 and CD10 of the Local Plan 2024.
3. **Windows in white painted timber**
The windows hereby approved shall be sashed framed in white painted timber and so maintained.
Reason - To preserve or enhance the appearance of the building and/or the character of the area, in accordance with policies of the development plan in particular policies CD1, CD2, CD3 and CD4 of the Local Plan 2024.
4. **Scope of permission**
The grant of planning permission relates solely to the changes to the windows and door, and does not include the amalgamation of the property or the 2 HVAC units shown on the drawings.
Reason - To clarify the scope of the permission.

INFORMATIVES

- 1 Your attention is drawn to the Conditions of this Permission and to the Council's powers of 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.
- 2 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.
- 3 This development has been categorised as Category 3 for the purposes of the Council's Code of Construction Practice, so does not require a condition securing a Checklist or Site Construction Management Plan (SCMP). You are reminded that the Code still applies to building works at the site with regard to working hours and other site practices, and you are advised to review the Code to be aware of its objectives
<https://www.rbkc.gov.uk/environment/code-construction-practice>
- 4 Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2018 (as amended), and the grant of planning permission does not imply that such approval will be given. The District Surveyor, Town Hall, Hornton Street, W8 7NX should be consulted before works commence.

- 5 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, although not used in this instance.

On first submission the proposals did not comply with guidance, but improvements suggested by the planning authority were adopted by the applicant.

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)

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).

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

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) may be viewed at www.rbkc.gov.uk/planningsearch/cases/PP/25/02338. Access to

computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

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