

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 23/04/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/00780	Agenda Item:	S40	
Address:	31B Fernshaw Road, LONDON, SW10 0TN			
Proposal:	Proposed straightening of external walls on first floor and creation of brick facades, raising of first floor's roof height to incorporate a green roof with flat skylights, first floor extensions.			
Applicant:	MrKEMP			
Agent:	Ms Soumelidou Ioanna Soumelidou			
Properties notified:	Objections:	Support:	Comments:	Petition:
26	4	0	0	0
Conservation area:	Sloane/Stanley			

1. Summary

- 1.1 The proposed development has been carefully designed to ensure that it would preserve the character and appearance of the property and the wider conservation area. Consideration has been given to the impact on the neighbouring properties and the proposal would maintain good standards of living conditions for the occupiers of neighbouring properties and would have an acceptable impact on highway safety. The proposals would comply with the relevant policies in the development plan, as well as complying with the statutory requirements for development within a conservation area. There are no material considerations to suggest a decision other than in accordance with the development plan.
- 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 site comprises an unusual property addressed as 31b Fernshaw Road. Whilst the garage and front entrance is street facing along Fernshaw Road, the main living quarters sit behind the back gardens of No's 31-35 Fernshaw Road, with the two elements connected via an internal corridor.
- 3.2 The main property is part one / part two storeys', with the first floor created from a mansard style roof. Living space and a courtyard garden are provided on ground floor and bedrooms and terraces on the first floor. The garage along the street frontage is single storey with a flat roof.
- 3.3 The surrounding properties along Edith Terrace, Fernshaw Road, Kings Road and Edith Grove were built in the late 1800's. Whilst differing in detailed design, the properties are primarily four storey terraces fronting the street.
- 3.4 Abutting the application site to the southeast there is a row of three, two storey mews houses, approved planning permission in 2013 (PP/13/05207). The properties are characterised with a flat roof and London Stock Brick facing.

4. The proposal and any relevant planning history

- 4.1 This application is a revision to the previously approved scheme under reference PP/23/07061 for '*Proposed straightening of external walls on first floor and creation of brick facades, raising of first floor's roof height to incorporate a green roof with flat skylights, extension of first floor on south west side and creation of green roofs with flat skylights above garage/main entrance of property and the enclosed walkway*'. The current proposal would include all elements as previously approved but it would also include an additional first floor extension that would project over the top of the existing entrance. This addition would measure approximately 1.75m in depth and 3.6m in width.
- 4.2 Whilst works have commenced on site, the previously approved development is not substantially completed and therefore the complete scheme has been included in this resubmission.
- 4.3 It is necessary to note that the extant permission carries significant weight in the determination of this application, particularly as there have been no material changes in policy or circumstance since the granting of this permission. Notwithstanding this, the full scheme will form part of this assessment.
- 4.4 Planning permission has been sought for:
 - Straighten the external walls on the first floor, converting the roof formation from a tiled mansard to a typical brick faced wall with flat, green roof system.
 - First floor extension to the southern corner, projecting onto the existing roof terrace. The extension seeks to square the corner of the building to be flush with the original rear and flank walls of the property.
 - First floor extension projection over the top of the southwestern entrance.
 - Replacement of glass roof of the enclosed walkway that links the front of the property to the main building. The proposed flat roof will be a combination of flat skylights and green roof.
 - The roof above the garage and the main entrance of the property is proposed to be replaced by a flat green roof system with flat skylights.
 - The existing trellises on the first-floor terrace are to be replaced with horizontal wooden slats.
 - Existing high-level windows at ground floor on the rear elevation (northeast) front elevation (southwest) are to be blocked as they are no longer required.

4.5 A site visit was carried out on 16th January 2024.

4.6 The relevant planning history is set out below:

Reference	Description	Decision
PP/11/01579	Replacement of existing entrance door surround with natural stone surround.	Granted.
PP/16/04319	Demolition of two storey house and construction of a two-storey house with a basement.	Granted.
PP/16/04292	Replacement of entrance and garage doors, and roof light.	Refused.
PP/16/04339	Demolition of two storey house and construction of a house with two storeys above ground and a new basement with a swimming pool.	Granted.
PP/23/05256	Lowering of finished floor level by 30cm on the ground floor and increase the courtyard's floor area; the recessed external wall on the South West side of the main building to be a glass facade (ground floor level only)	Granted.
PP/23/07061	Proposed straightening of external walls on first floor and creation of brick facades, raising of first floor's roof height to incorporate a green roof with flat skylights, extension of first floor on south west side and creation of green roofs with flat skylights above garage/main entrance of property and the enclosed walkway.	Granted.

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 area	CL3, CL11
General townscape	CL1, CL2, CL6
Living conditions	CL5
Transport	CT1

These policies can be read online at:

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

5.2 The Council started a New Local Plan Review ("NLPR") and consultation on Publication Policies (Regulation 19) closed on 22 December 2022. The Council submitted the NLPR for examination (Regulation 22) on 8th February 2023. Examination hearings were held in June and July 2023. Main modifications were discussed to make the NLPR "sound" during

the hearings and there will be a public consultation on the main modifications. The Examination remains open until the receipt of the Inspector's report.

- 5.3 The statutory starting point for determining this proposal remains the adopted policies in the development plan, including the RBKC Local Plan 2019, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, paragraph 47 of the National Planning Policy Framework, and paragraph 001 of the National Planning Practice Guidance on Plan-making. Paragraph 48 of the NPPF outlines the weight local authorities may give to relevant policies in emerging plans. The timetable for the adoption of the NLPR depends on when the Council receives the Inspector's report. There is no published timetable for this. The emerging Local Plan will be a material consideration but afforded limited weight at this stage.

Other local strategies or publications

- 5.4 The main relevant supplementary planning documents adopted by the Council are:
- Sloane Stanley Conservation Area Appraisal
 - Trees and Development
 - Noise
 - Transport and Streets

These documents 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 An arboricultural assessment has been provided as part of this submission that includes a tree survey, impact assessment, method statement and a tree protection plan and recorded three trees, two of which are growing in the rear gardens of properties in Edith Terrace and one growing in the rear garden of a property in Fernshaw Road. The report concludes that provided that the measures, set out in the report, are adhered to that there would be no impact on the adjacent trees. Condition 6 is recommended to ensure that the methods are complied with during construction.
- 6.2 The decisive issues are:
- i Whether the proposal would preserve or enhance the character or appearance of the property and conservation area; and
 - ii Whether the proposal would continue to ensure good living conditions for those living nearby.

Design and impact on the character of the conservation area

- 6.3 The application site is in the Sloane Stanley Conservation Area and is identified as positively contributing to the character and appearance of the conservation area. The garage sits along the street frontage of Fernshaw Road, with the main two storey property set back from the street scene. Only the primary access is widely visible to the public realm, leaving the dwelling mainly subject to private views from the surrounding block of properties.

- 6.4 Save for some minor alterations to the roof of the garage, the majority of the development proposals would be to the rear building, thus maintaining the openness of this part of the street.
- 6.5 The proposal seeks to remove the existing mansard roof, replacing it with a tiled brick wall and flat roof, and to create a modest first floor extensions. Whilst the bulk of the property would be moderately increased, this would be subject to limited views within the conservation area.
- 6.6 The existing property has an inconsistent design, with varying materials, roof designs and characteristics. By squaring the roof and elevations, as well as incorporating the same flat roof design throughout the development, it would appear uniform and would provide a clear contrast between the historic terraces which surround this infill development and the back land development. In addition, the resultant property design would correspond with the neighbouring back land development, therefore respecting existing context in accordance with Local Plan Policy CL1.
- 6.7 The development would be finished in London stock brick, which is the prevailing material and characteristic of the area of both period properties and the more recent infill mews.
- 6.8 The development because of its design, size scale, location and materials would preserve the character and appearance of the conservation area and wider street scene. The development would comply with policies CL1, CL2, CL3, CL6, and CL11 of the Local Plan 2019.

Impact on neighbouring properties

- 6.9 The application site is in a densely populated area. The existing property already provides a degree of a mutual overlooking with the properties to the south, west and north of the site.
- 6.10 As concluded previously, the proposed alterations to the roof and first floor would bring the general form and massing of the building slightly outward. Existing sectional drawings demonstrate that whilst this depth has already been established by trellis, the height and mass would be increased.
- 6.11 However, this scheme seeks to increase the volume of the property at first floor, extending south-westwards on the existing entrance.
- 6.12 A first-floor extension in this location formed part of the original scheme submitted into the Local Planning Authority, but on advice from the Council, this was removed entirely prior to determination. The applicant has now reduced the depth of this extension as part of this resubmission; the proposal would not extend the full depth of this flat roof addition, instead it would project approximately 1.75m at a modest 3.6m in width. The depth of this proposal would be noticeably shallower than the building line created by the existing and proposed replacement trellis.
- 6.13 The potential harm of the development has been assessed in a Daylight and Sunlight Report, carried out by Right of Light Consulting. The assessment is based on the various numerical tests laid down in the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice, 3rd Edition' by P J Littlefair 2022. The report was completed using the original scheme and full depth first floor extension. Whilst the reports demonstrated that the proposed development would have a relatively low impact on the light receivable by its neighbouring properties, the amendments undertaken would reduce this impact further.
- 6.14 The proposed walkway would measure 2.6m in height, matching the ridgeline of the existing walkway. The proposal to provide a flat roof would add additional bulk to this

structure, yet given that this is only 600mm above a typical boundary treatment and when taking into consideration the separation distances, this would not create any harmful impact on neighbours.

- 6.15 No additional openings would be created, whilst replacement windows are to continue to be obscured by trellis. The proposal seeks to remove windows from the ground floor. Whilst these windows are high level and obscure glazed, thus offer no ability to overlook neighbouring properties, windows such as these often create the sense of overlooking that can be harmful. The removal of these windows would be positive to neighbour amenity.
- 6.16 Given the access in and out of the site, this would have an impact on the construction of the development in terms of construction traffic and if not managed appropriately, would cause disturbance to those living nearby and the surrounding highway network. It is therefore necessary and reasonable to recommend a condition to secure a Construction Traffic Management Plan before works begin. Part of the plan will require consultation with neighbours.
- 6.17 Given the above, the proposal to include a modest first floor extension to this scheme would be acceptable and is in accordance with Local Plan Policy CL5.
- 6.18 The proposed development seeks to improve the internal arrangement of the property. Currently the pitch of the mansard style roof thwarts the internal configuration, therefore this development would have a significant positive impact on future occupants of the property.

Issues and balancing

- 6.19 On balance, the proposal would be acceptable and in accordance with the relevant development plan policies and would ensure that the residential amenity of neighbouring properties would be safeguarded.
- 6.20 Considerable importance and weight have 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 26 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 3/11/2023. A statutory notice advertising the application was posted near the site on 3/11/2023
- 8.2 No letters were received supporting the application.
- 8.3 4 letters were received objecting to the application, summarised as:

	Comment	Response
/PP/24/00780: 6	1 It is understood that RBKC Planning Officers advised that the	The proposed first floor extension has now been reduced in depth. The proposed

	first floor extension was unacceptable.	amendment is considered to overcome original concerns raised by the Local Planning Authority.
2	Raising the height of the property will be intrusive and oppressive.	The proposed additions would not unduly project beyond the rear building line of the property and there would still be some separation distance to the neighbouring properties. As such, the proposal would not result in a harmful sense of enclosure.
3	Scaffolding will need to be erected on the party wall.	This is not a planning consideration and is a civil matter.
4	Concerns regarding security.	The proposed alterations to the property are not considered to create a security risk.
5	There is a lack of consultation with the neighbours.	The Council carried out a statutory consultation and whilst the Local Planning Authority always recommends that the owner/developer consults with the local community prior to submission of the application, this is not compulsory.
6	The proposed height of the walkway will block light and obscure views.	The height of the proposed walkway would be similar in height to that which currently exists. As such the proposal would not create any further harm on neighbouring properties.
7	Health and safety at a restricted site	The site is unusual and the access to it is already constraints. This application does not seek to intensify the use of the site. Any access and safety would be covered by the building control regime.

9. Recommended conditions

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 *Proposed First Floor Plan REV -*, *Proposed North East Elevation REV -*, *Proposed North West Elevation REV -*, *Proposed Roof Plan REV -*, *Proposed Section A-A REV -*, *Proposed Section B-B REV -*, *Proposed South West Elevation REV -*.

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

3. Use of roof as terrace precluded

The areas of flat roof that are not marked as 'terrace' on drawing 'Proposed roof plan' Rev 1 shall not be used at any time as a terrace/amenity space.

Reason - To avoid overlooking and disturbance to neighbouring properties and so

accord with policies of the development plan, in particular policy CL5 of the Local Plan 2019.

4. 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 CL1, CL2, CL3 and CL6 of the Local Plan 2019.

5. Code of Construction Practice

No development shall commence until:

A) An Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted to, and 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 development shall be carried out in accordance with the Appendix A Checklist and SCMP so approved, or in accordance with a subsequent Checklist or SCMP as may be approved under this condition.

Note - 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. Protection of trees during construction

The development shall be carried out in complete accordance with the method statement and tree protection plan in the Arboricultural Assessment dated 22/09/2023.

Reason - To ensure that the trees are adequately protected, to safeguard their contribution to the appearance and amenity of the area and accord with policies of the development plan, in particular policy CR6 of the Consolidated Local Plan. 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.

7. Construction Traffic Management Plan (CTMP)

No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The statement should include:

- a) routing of demolition, excavation and construction vehicles, including a response to existing or known projected major building works at other sites in the vicinity and local works in the highway;
- b) access arrangements to the site;
- c) the estimated number and type of vehicles per day/week;
- d) details of any vehicle holding area;
- e) details of the vehicle call up procedure;
- f) estimates for the number and type of parking suspensions that will be required;
- g) details of any diversion or other disruption to the public highway during preparation, demolition, excavation and construction work associated with the development;
- h) work programme and/or timescale for each phase of preparation, demolition, excavation and construction work associated with the development;
- i) details of measures to protect pedestrians and other highway users from construction activities on the highway; and
- j) 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, position of nearby trees in the highway or adjacent gardens, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements.

The development shall be carried out in accordance with the approved Construction Traffic Management Plan. A one page summary of the requirements of the approved CTMP shall be affixed to the frontage of the site for the duration of the works at a location where it can be read by members of the public.

Reason - To minimise the impact of construction works upon highway safety and nearby residents' enjoyment of their properties in accordance with policies CT1 and CL5 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 Development Plan.

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 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](#)

- 3 This property is within a Conservation Area. All building works should, therefore, be
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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.

- 4 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.

- 5 You should engage with neighbours and local residents associations in advance of submitting your Construction Traffic Management Plan (CTMP). It is also advisable to engage in further pre-application discussions with the Local Planning Authority prior to submission of the CTMP. You are reminded of the purpose of the CTMP, which is to mitigate impact upon the living conditions enjoyed by residents of neighbouring properties as well as to ensure the safe and unobstructed function of the highways in the vicinity. You are also reminded of the membership of the Considerate Constructors Scheme, required by condition and which has similar objectives. Care and sensitivity is required when carrying out development in residential areas.

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/PP/24/00780. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Ms. C. Collins

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