

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 07/05/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/00640	Agenda Item:	S51	
Address:	8 Cornwall Gardens, LONDON			
Proposal:	Refurbishment of rear lower roof and installation of new roof, replacement of roof light over common stairwell			
Applicant:	Tall Building Ltd			
Agent:	Ms Zelichowska-Chowdery Shape of Architecture Limited			
Properties notified:	Objections:	Support:	Comments:	Petition:
25	3	3	0	0
Listed building:	Grade II			
Conservation area:	Cornwall			

1. Summary

- 1.1 The proposals would continue to preserve the special architectural and historic interest of the listed building, terrace and wider Cornwall Conservation Area. The alterations to the existing rooflight and the membrane over the flat roof would have no material impact on the use or operation of the existing flat or surrounding flats, rather are sought to repair the roof and improve thermal performance.
- 1.2 The proposal would continue to maintain an acceptable relationship with nearby residential properties. There are no material considerations to indicate a decision otherwise than in accordance with the development plan, and therefore, it is recommended that planning permission is approved, subject to the recommended conditions.
- 1.3 Objections received from interested parties have been taken into consideration and are addressed throughout the report and in Section 8.

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 application site relates to No. 8 Cornwall Gardens which is a seven storey, mid terrace, residential building which is divided into seven flats. This application specifically relates to Flat No. 2.
- 3.2 The adjacent row of terraces adjoining the site are Grade II listed residential buildings, which are divided into flats similar to the subject site.
- 3.3 The subject building is Grade II listed and is within the Cornwall Conservation Area.

4. The proposal and any relevant planning history

- 4.1 This application seeks planning permission and listed building consent for the refurbishment of the rear lower roof and installation of new roof and the replacement of roof light.
- 4.2 The alterations are largely in accordance with the pre-existing arrangement in terms of the size and location of the rooflight over the common stair and the materiality of the membrane over the lower flat roof area.
- 4.4 The relevant planning history is set out below:

Reference	Description	Decision
PP/14/00613	Use of rear flat roof as terrace. Resurfacing of rear flat roof and installation of perimeter railings (amended description).	Granted – 08/05/2014

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	CL3, CL4
General townscape	CL1, CL2, CL6, CL8, CL9, CL11
Living conditions	CL5

- 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>

- 5.3 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 8 February 2023. Examination hearings were held in June and July 2023. The Council received a Post Hearings letter from the Inspector requesting the Council prepare a schedule of Main Modifications and the public consultation on these ended on 12 March 2024. The representations received are being considered by the Inspector. The final stage of the examination is for the Council to receive the Inspector’s report but there is no published date for this. The Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector’s report and may change.

- 5.4 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 Council hopes to adopt the Plan in May/June 2024, but this depends on when we receive the Inspector's report and may change. The emerging policies in the NLPR are a material consideration afforded moderate weight at this stage however, where specific emerging policies are of particular relevance to the assessment, individual weightings have been given and expressed.

Other local strategies or publications

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

- Cornwall Conservation Area Appraisal

- 5.6 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 The site is within the Kensington Critical Drainage Area. The proposals do not alter the surface area of the roof over Flat No. 2 however they do involve the relocation of an existing downpipe. Notwithstanding this, the existing drainage conditions on the site would not be altered and the works are acceptable.

- 6.2 The decisive issues are:

- i Whether the proposals would continue to preserve or take opportunities to enhance the special architectural and historic interest of the listed building, terrace and wider Cornwall Conservation Area; and
- ii Whether the proposals would continue to ensure good living conditions for all neighbouring occupiers.

Heritage

- 6.3 The proposals would include the application of a new single ply membrane to replace the existing damaged single ply membrane over the flat roof to Flat No. 2, a new double glazed, partially openable rooflight to replace the existing within the same opening, and the minor relocation of an existing downpipe to facilitate works to the rooflight. Given the works are similar to existing, they would not be out of character with the existing building or the row of terraces. The proposed singly ply membrane would cover the existing parapet with a thickness of approximately 3mm. Recommended condition 3 requires the colour to match existing. The proposed double glazed rooflight would have one fixed panel over the bathroom within Flat No. 2 and two sliding panels over the common stairwell to allow for maintenance access. The rooflight as a whole is within the existing rooflight opening and would be similar to the existing size and location. The rooflight would not sit flush with the current condition however given the difference is minor and would not be significantly noticeable, the rooflight would be acceptable. The relocation of the rear downpipe is welcomed noting the new location would look tidier on the flat roof.

Living Conditions

- 6.4 The proposals would not result in any additional visual, acoustic or privacy impacts beyond the current situation already present on site. The new openable rooflight is for maintenance purposes only and recommended condition 4 would ensure that this is maintained.

Issues and balancing

- 6.5 The works are acceptable and would preserve the character and appearance of the conservation area, and safeguard the special architectural and historic interest of the listed building. The works would continue to ensure good living conditions for those living nearby.
- 6.6 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.

7. Community Infrastructure Levy

7. 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 Thirty-two nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 09/02/2024. A statutory notice advertising the application was posted near the site on 09/02/2024.
- 8.2 Three (3) letters were received supporting the application, summarised as:

	Comment	Response
1	Access hatch through rooflight is appropriate given it will allow maintenance on the roof.	Given the new rooflight is within an existing opening and is for maintenance purposes only, Council raises no objections.
2	Roof restoration works will improve the appearance of the Listed Building.	Given the works are like for like with the existing condition and will repair the damaged membrane, Council raises no objections.

- 8.3 Three (3) letters were received objecting to the application, summarised as:

	Comment	Response
1	Works not appropriate for the Listed Building	The works are similar to the existing condition and are for repair and restoration purposes. Council's Design and Conservation Officer has reviewed the Planning Application and the accompanying Listed Building Application and did not raise any objections.

2	Safety implications for Flat No. 3 above.	The agent addressed this concern noting that the sliding rooflight would be locked outside of maintenance repairs. A condition is attached to ensure the roof light is only used for maintenance purposes.
---	---	--

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Conservation and Design Officer	No objections, recommend conditions.	Part 6.3

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 *Proposed Plans (D.02 - Rev 04)*
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.

3. **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.

4. **Use of roof as terrace precluded**
The roof over Flat No. 2 forming the subject of this planning permission shall not be used at any time as a terrace/amenity space and the rooflight hereby approved shall only be used for maintenance access.
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.

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 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, and which has been followed in this instance.
- 5 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>
- 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

- 8 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/24/00640. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Ms. M. Quigg

Telephone: 07977-756-268