

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 21/05/2024

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/24/01509	Agenda Item:	S57	
Address:	Flat 3, 20 Elvaston Place, LONDON, SW7 5QF			
Proposal:	Installation of a heat pump on the rooftop			
Applicant:	MrOntswedder			
Agent:	Mrs Romano RIA- Romano Interior Architecture			
Properties notified:	Objections:	Support:	Comments:	Petition:
35	4	0	1	0
Conservation area: Queen's Gate				

1. Summary

- 1.1 The proposals would be in accordance with the relevant policies of the Local Plan 2019. Given its location and modest scale, the proposal would preserve the character and appearance of the Queen's Gate Conservation Area. The proposals would also comply with the Council's Noise SPD and would ensure good living conditions for neighbouring occupiers. The proposals would comply with the relevant policies in the local 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 application relates to the first floor roof of no. 20 Elvaston Place, which is an end of terrace building. The first floor roof is located at the rear of the application site along Gore Street. The site is located within the Queen's Gate Conservation Area.

4. The proposal and any relevant planning history

- 4.1 Planning permission is sought for the installation of a heat pump to the first-floor flat rooftop at the rear of no. 20 Elvaston Place. The heat pump would be encased in an acoustic enclosure.
- 4.2 Case officers visited the site on 02/05/2024.
- 4.3 There is no relevant planning history.

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, CL11
General townscape	CL1, CL2, CL6, CL8
Living conditions	CL5, CE6

- 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:
- Queen’s Gate Conservation Area Proposal Appraisal
 - Noise

5.6 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>
- Other documents: <https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/supplementary-planning-documents-and-guidance>

6. Evaluation

6.1 The decisive issues are:

- i Whether the development would preserve the character and appearance of the conservation area; and
- ii Whether the living conditions of neighbouring occupiers would be safeguarded.

Character and Appearance

6.2 The proposed installation of a heat pump and acoustic enclosure would be acceptable and pose minimal material impact to the character and appearance of the conservation area. The proposed heat pump would be placed at the north-west corner of the flat roof, the farthest possible location on the first floor roof from the adjacent Gore Street, which runs along the east side of no. 20 Elvaston Place. Consequently, the parapet of the first-floor roof would shield the proposed heat pump from public views along Gore Street. Petersham Place runs along the northern boundary of the site; however, the heat pump would not be visible from any public views along Petersham Place. Whilst the proposal would be visible from private views at upper-level floors along adjacent properties at Elvaston Place, the proposal is minor in nature and scale, and would not materially impact on the setting of the conservation area. Additionally, Condition 6 has been recommended, which would require the acoustic plant enclosure to be painted white and so maintained to preserve the character and appearance of the existing building and wider conservation area. Considering the above, the proposals comply with policies CL1, CL2, CL3, CL6, CL8 and CL11 of the Local Plan 2019.

Living Conditions

6.3 It is recognised that there are other residential properties that would be in close proximity to the proposed location of the heat pump and acoustic enclosure. A detailed acoustic impact assessment was submitted as part of the documents accompanying this application and demonstrates that the heat pump can operate at noise levels that would not cause undue noise disturbance to neighbouring occupiers. Conditions 3, 4 and 5 are recommended to secure this. Subject to these conditions, the proposed works would ensure good living conditions for neighbouring residents and would comply Local Plan 2019 policies CL5 and CE6.

Issues and balancing

- 6.4 The proposed development would preserve the character and appearance of the conservation area and would ensure that the living conditions of nearby properties are maintained subject to conditions. The proposal would comply with development plan policies, in particular CL1, CL2, CL3, CL5, CL6, CL8, CL11 and CE6.
- 6.5 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)

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 35 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 15/03/2024. A statutory notice advertising the application was posted near the site on 15/03/2024.
- 8.2 No letters were received supporting the application.
- 8.3 Four letters were received objecting to the application, summarised as:

	Comment	Response
1	We object to the installation of a heat pump because of the probable associated noise disturbance, which will negatively affect the properties immediately surrounding the proposal site. The proposal would be a detriment to the existing tranquil environment, and potentially disrupt our sleep.	The proposal complies with the criteria outlined in the Council's Noise SPD. Additionally, Conditions 3, 4 and 5 have been recommended to prevent any significant noise disturbance to residents of nearby properties and comply with development plan policies.

Statutory consultees

Consultee	Comment	Where in the report this is considered
Environmental Health Officer	No objection is raised to the proposal, subject to conditions.	Para. 6.3. Conditions 3-5.

9. Recommended conditions if the application is granted

- 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.
- Compliance with approved drawings**
The development shall not be carried out except in complete accordance with the details shown on submitted plans *Location Plan; A-0.11; A-3.10; NIBE S2125 Air/Water Heat Pump; RIA20ELV Enclosure Specs.*
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.

3. **Noise from building services plant and vents**
Noise emitted by the plant, when operating concurrently or in individually, shall not increase the lowest existing measured background LA90(15min) level measured or predicted at 1.0m from the nearest residential window and/or at a height of 1.2m above any adjacent residential garden, terrace, balcony or patio at any time when the plant is operating. The plant shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained. If at any time the plant is unable to comply with this Condition, they shall be switched off and not used again until it is able to comply.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local Plan 2019.
4. **Anti-vibration mounts for air-conditioning/ extraction equipment**
All plant and equipment shall be supported on adequate proprietary anti-vibration mounts as necessary to prevent the structural transmission of vibration and regenerated noise within adjacent or adjoining premises, and these shall be so maintained thereafter. If at any time the plant is unable to comply with this Condition, it shall be switched off and not used again until it is able to comply.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local Plan 2019.
5. **Compliance with Acoustic Report**
In order to comply with condition 3, the noise mitigation measures as specified in the Noise Impact Assessment, compiled by Parker Jones Acoustics Limited dated 7th February 2024 ref: first issue, shall be adopted and implemented in full and thereafter maintained.
Reason - To prevent any significant disturbance to residents of nearby properties and comply with development plan policies, in particular policy CL5 of the Local Plan 2019.
6. **Acoustic Enclosure to be White Painted**
The heat pump acoustic enclosure shall be white painted 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 CL1, CL2 and CL3 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 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.
- 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 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.

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/24/01509. Access to computers is also available in the Customer Service Centre at the Town Hall.

Contact officer:

Mr N. Palmer

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