

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 11/02/2025

REPORT BY THE DIRECTOR, PLANNING AND PLACE

<b>Application:</b>	PP/24/06375	<b>Agenda Item:</b>	N002		
<b>Address:</b>	49 Bassett Road, LONDON W10 6JR				
<b>Proposal:</b>	Variation of condition 1 (compliance with approved drawings) of planning permission 22/05318, to allow replacement of drawings A230A, A231A and A232A with drawings A230B, P231B, P232B, P332B, AC230B, AC231B, AC232B, AC332B in order to reflect the proposal as built, and an additional change to the western edge of the balcony.				
<b>Applicant:</b>	C/O agent				
<b>Agent:</b>	Mr Lennon Rapleys LLP				
<b>Properties notified:</b>	<b>Objections:</b>	<b>Support:</b>	<b>Comments:</b>	<b>Petition:</b>	
22	8	0	0	0	
<b>Conservation area:</b>	<b>Oxford Gardens</b>				

## 1. Summary

- 1.1 This current application seeks material amendments under Section 73 of the Town and Country Planning Act 1990 ("TCPA") by way of variation of condition 1 (compliance with approved drawings) of planning permission PP/22/05318. Subject to conditions, the proposals would comply with policies of 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 7. 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 8 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 a detached five storey property and adjoining two-storey carriage house which is located on the southern side of Bassett Road to the west of the junction with St Marks Road. The property occupies a corner position with two frontages on Bassett Road and St Marks Road. The building is split into apartments and this application relates to Flat 4 only.
- 3.2 The site is not listed; however, it is situated within the Oxford Gardens Conservation Area.

### 4. The proposal and any relevant planning history

- 4.1 The application seeks a minor material amendment under Section 73 of the Town and Country Planning Act 1990 by way of variation of condition 1 (relating to the approved plans) of permission ref. PP/22/05318. The extant permission carries significant weight in the determination of this application. The changes to the scheme include:
1. Relocation of black metal railings along southern edge of the balcony by 0.3m (retrospective)
  2. Relocation of black metal railings along western edge of balcony by 1.7m

The proposed relocation of the railings would result increase the overall footprint of the balcony.

- 4.2 PP/22/05318 sought permission for the addition of a balcony to the rear of Flat 4 and was granted at appeal under ref: APP/K5600/W/23/3314778.
- 4.3 Officers visited the site on 19.11.2024.
- 4.4 The relevant planning history is set out below:

Reference	Description	Decision
PP/16/01881	Change of use to provide 6 residential units, creation of single storey basement and associated lightwells and courtyard, redevelopment of carriage house, including side and rear extension, rear extension to main building, various alterations to the fenestration and alterations to the treatment of the front of the property including refuse storage, new boundary treatment and three parking spaces.	Granted (30/06/2017)
PP/17/06062	Variation of condition 2 (approved drawings) of planning permission 16/01881 involving demolition of walls between carriage house and main building and rear wall.	Granted (21/12/2017)
PP/17/06952	Variation of Condition 2 (Change of Use) of planning permission PP/16/01881 for erection of single storey mansard extension at first floor level.	Refused (05/01/2018)  Appeal dismissed

		(27/07/2018)
PP/19/08463	Variation of Condition 2 (Compliance with approved drawings) of planning permission PP/17/06062 (Variation of condition 2 (approved drawings) of planning permission 16/01881 involving demolition of walls between carriage house and main building and rear wall) to introduce 1 x balcony to rear of flat 4, with replacement of 1 x approved window (W4 14) to a door, and 1 x balcony to rear of coach house, with replacement of 1 x approved window (W3 19) to a door.	Refused at PAC (11/08/2020)
PP/20/05906	Variation of Condition 2 (compliance with approved drawings) of planning permission PP/17/06062 for replacement drawings to re-apply for a balcony to the rear of the coach house at ground floor level	Granted at PAC (27/10/2020)
PP/21/02007	Variation of condition 2 (approved drawings) of planning permission 17/06062 to add a 1.2 metres balcony to the rear of Apartment 4	Refused (20/05/2021)
PP/22/05318 (parent permission)	Variation of condition 2 (compliance with approved drawings) of planning permission 17/06062 to allow the addition of a balcony to the rear of Flat 4.	Approved at appeal: APP/K5600/W/23/33 14778 (24/01/2024)

## 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, CD15
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:

- Oxford Gardens Conservation Area Proposal Appraisal

5.4 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 The approved and implemented permission (PP/22/05318) is a material consideration for this current application and carries significant weight in the determination of this application. Where changes are proposed to a development following the grant of planning permission an applicant is able to make a material amendment by applying to vary or remove conditions attached to a planning permission, including the approved plans condition. This type of application is made under section 73 of the TCPA. The changes to the scheme are as outlined above.
- 6.2 Since the granting of this planning permission, the Council has adopted the Local Plan 2024. However, there have been no material changes in policy or circumstance that are relevant to the current application. In addition, the permission remains extant and has been implemented and carries substantial weight in the decision-making process.
- 6.3 The works approved at appeal under this previous planning permission PP/22/05318 are therefore still considered acceptable and in compliance with the Development Plan. The assessment below therefore focuses on the changes to the scheme.
- 6.4 It is important to note that permission is not sought for the balcony itself as this was approved at appeal under PP/22/05318. This application relates only to the positioning of the black metal railings on the consented balcony.
- 6.5 In line with the Code of Construction Practice, the proposals would constitute Category 3 development. As such, the condition relating to the Considerate Construction Scheme is no longer considered relevant and therefore has not been reattached to this application.
- 6.6 Policy CD16 sets out that all development proposals must demonstrate that they achieve the highest standards of fire safety. Policy CD16 requires the submission of a Planning Fire Safety Strategy (PFSS) for “minor” or “other” planning applications, or a Reasonable Exception Statement (RES), as considered relevant by the applicant. The application is supported by a Fire Safety Planning Note in accordance with CD16 of the Local Plan.
- 6.7 The decisive issues are:
- i Whether the proposals would preserve or enhance the character, appearance and significance of the property and conservation area; and
  - ii Whether the proposals would have an acceptable impact on neighbouring living conditions.

### Character and appearance

- 6.8 Under the previous planning application, permission was granted for black metal railings along the rear/ southern edge of the balcony at a distance of 1.2m from the rear elevation. Permission is now sought retrospectively to relocate these railings to the parapet wall at a distance of 1.5m from the rear elevation. Permission is also sought to relocate the black

metal railings from beside the existing door, to the parapet along the western edge of the balcony by approx. 1.7m.

- 6.9 This application therefore considers the acceptability of relocating the railings by 0.3m to the rear, 1.7m to the western edge of the balcony and the associated increase in footprint of the balcony on the character, appearance and significance of the property and wider conservation area.
- 6.10 The proposed railings would match the design and material of those previously approved. There are other examples of consented black metal railings on the parapet wall at rear ground and lower ground floors of the application site. In addition, the only change to the consented scheme is the slight enlargement of the approved balcony. Therefore, given the location, design and materials, the proposed relocation of the railings would preserve the character, appearance and significance of the property and conservation area in accordance with local plan policies CD1, CD2, CD3, CD4, CD10 and CD15.

## **Living conditions**

### Visual Privacy

- 6.11 Given there is an existing balcony at this location, and the minor scale of the proposed increase to this balcony, the relocation of the railings would not materially increase the level of overlooking and loss of privacy towards the neighbouring properties at 89 and 91 St Marks Road or 51 Bassett Road. It is acknowledged that proposals would allow the occupier to access the flat roof area located closest to 51 Bassett Road. However, as existing there is only one window on the side elevation of the property and the line of sight to this window is existing.
- 6.12 Given the significant separation distance of approximately 25m from the rear of 96 and 98 Oxford Gardens opposite, the proposed relocation of the railings would not give rise to unacceptable levels overlooking of these neighbouring occupiers.
- 6.13 Considering the above, reasonable visual privacy for occupants of the neighbouring properties would be maintained in line with local plan policy CD9, criterion C.

### Noise

- 6.14 With specific regard to noise, criterion C of local plan policy CD9 requires the reasonable enjoyment of the use of neighbouring properties, gardens or other spaces. The proposed relocation of the railings and the associated small increase in overall footprint of the balcony would not generate a level of noise or disturbance that would harm enjoyment at neighbouring properties. As noted by the inspector in the previously granted scheme, the size and shape of the existing balcony limits its usage, especially a functional social space and the proposals would not facilitate large social gatherings. This would remain true, despite the small increase in footprint. Considering the above, the proposals would comply with criterion C of local plan policy CD9.

### Daylight and Sunlight/ Sense of enclosure

- 6.15 Given the nature of the proposals there would be no material impact on levels of daylight and sunlight or sense of enclosure at neighbouring properties in line with local plan policy CD9, criteria B and D.

## **Issues and balancing**

- 6.16 Overall, the proposal due to its design, size, scale, location and materials would preserve the character, appearance and significance of the building and wider conservation area. The proposed changes to the site of the balcony would ensure that the amenity and living conditions of the neighbouring properties would be safeguarded. The proposals would comply with the following local plan policies: CD1, CD2, CD3, CD4, CD9, CD10 and CD15.

- 6.17 This application pursuant to s.73 results in a whole new planning permission. Considering the above, and the weight given to the extant permission, the proposal is considered acceptable and would comply with the Development Plan. All conditions imposed by the Inspectorate have been reconsidered and applied afresh and are necessary and reasonable in all respects in accordance with national guidance for conditions. Where applicable, conditions have been adjusted to reflect details already approved.
- 6.18 It is noted that the original permission was subject to a legal agreement, however the most recent permission (approved by the Inspectorate) has not been accompanied by a legal agreement and therefore it would not be necessary for the applicant to enter to into a new Deed of Variation.
- 6.19 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. Consultations carried out

### Comments from interested parties

- 7.1 22 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 11/10/2024. A statutory notice advertising the application was posted near the site on 11/10/2024.
- 7.2 No letters were received supporting the application.
- 7.3 8 letters were received objecting to the application, summarised as:

	Comment	Response
1	The proposals would harm the living conditions of neighbouring occupiers, especially in terms of overlooking, as a result of increasing the footprint of the balcony.	The relocation of the railings and associated increase in overall footprint of the balcony would not be harmful to the existing levels of overlooking or introduce new lines on sight into neighbouring properties. Please refer to paragraphs 6.11 to 6.13.
2	The proposal would result in increased noise levels on the balcony that would disrupt neighbouring occupiers.	The size and shape of the existing balcony limits its usage as functional social space and the proposals would not generate a level of noise or disturbance that would harm enjoyment at neighbouring properties. Please refer to paragraph 6.14.
3	The proposals would intensify the use of the balcony.	As noted by the inspector, the shallow depth and linear shape would limit its use for social gatherings. This would remain true, despite the small increase in footprint.

## 8. Recommended conditions if the application is granted

### 1. Compliance with approved drawings

The development shall not be carried out except in complete accordance with the details shown on submitted plans *Site Location Plan: 01; 02. Proposed drawings: 5411-PL-099 01; 5411-PL-100 01; 5411-PL-101 01; 5411-PL-103 01; 5411-PL-104 01; 5411-PL-105 01; 5411-PL-200 01; 5411-PL-204 01; 5411-PL-205 01; 5411-PL-206 01; 5411-PL-31- 01; A230B; P231B; P232B and P332B.*

### 2. Submission of details (Full PP)

Notwithstanding the details on the approved plans, the details relating to external materials, brickwork, boundary walls, fences and railings shall accord with those approved under application Ref. CON/19/08286 approved on 06/02/2020.

### 3. Construction Traffic Management Plan (CTMP)

The development shall be carried out in accordance with the Construction Traffic Management Plan approved under application Ref CON/17/07084 approved on 21/12/2017.

### 4. Professional management of engineering works

The construction works shall be supervised in accordance with the details approved under application Ref CON/17/04823 approved on 08/09/2017. In the event that the appointed engineer ceases to perform that role for whatever reason before the construction works are completed those works will cease until a replacement chartered engineer with a Chartered Civil Engineer (MICE) or Chartered Structural Engineer (MI Struct.E) qualification has been appointed to supervise their completion and their appointment confirmed in writing to the Local Planning Authority. At no time shall any construction work take place unless an engineer is at that time currently appointed and their appointment has been notified to this Authority in accordance with this condition.

### 5. Trees and landscaping – Details required

The development shall be carried out and maintained in accordance with the scheme of landscaping approved under application Ref CON/18/00759 approved on 15/03/2018

### 6. Protection of trees during construction

The development shall be carried out in accordance with the details contained in “Tree Protection Plan Construction Phase Rev 3; Statement of tree and root protection by Area 29 Design & Build” of tree protection details pursuant to the application to discharge the requirements of Condition 8 of planning permission PP/16/01881 contained within application CON/17/06455 and approved on 13/11/2017, to ensure the trees on and adjacent to the site are protected during site preparation, demolition, construction, landscaping, and other operations on the site including erection of hoardings, site cabins, or other temporary structures, and the development shall be carried out only in accordance with the details so approved.

### 7.

#### Planting and replanting

All tree and shrub planting forming part of the plans and details approved through this planning permission shall be carried out in the first planting and seeding season following the first occupation of the development or

the completion of the development whichever is the sooner. Any trees or shrubs which, within a period of five years from the first planting and seeding season referred to above, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

8. **Materials - To match existing**  
All work and work of making good shall be finished to match the existing exterior of the buildings in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
9. **Sash windows in painted timber**  
The windows hereby permitted shall be timber framed, white painted, double hung, sliding sashes, and so maintained.
10. **Roof Material - Natural slates**  
The roof slopes of the buildings hereby permitted shall be clad in natural slates, and so maintained.
11. **Conservation rooflights**  
The rooflights hereby approved shall be of a traditional conservation type, flush with the roof and slim framed, and so maintained.
12. **Roof Terrace – Black painted railings**  
The railings hereby approved shall be painted black, and so maintained.
13. **Sustainable Urban Drainage System (SuDS) (for major and minor applications – implementation)**  
During construction of the development hereby permitted the submitted Sustainable Urban Drainage System (SuDS) detailed within the SuDS Feasibility Study and Detailed Drainage Strategy (R/161073/F002) shall be fully implemented and maintained thereafter.
14. **Sustainable Homes**  
The dwellings shall achieve Level 4 of the Code for Sustainable Homes equivalent in relation to energy performance and none shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 equivalent for this criterion has been achieved.
15. **Building Regulations**  
The dwellings shall achieve compliance with optional requirement G2 (2) (b) and none shall be occupied until Building Regulations approval has been issued for it certifying that these criteria have been achieved.

## **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 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>
- 5 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](http://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).
- 6 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](mailto:dehcmt@rbkc.gov.uk)

- 7 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/24/06375](http://www.rbkc.gov.uk/PP/24/06375). Access to computers is also available in the Customer Service Centre at the Town Hall.**

**Contact officer:**

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