

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 09/04/2020

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/19/08094	Agenda Item:	S26	
Address:	25 Wetherby Gardens, LONDON			
Proposal:	Proposed landscaping and removal of trees within rear garden.			
Applicant:	MrsZok			
Agent:	Ms C Wheeler Savills			
Properties notified:	Objections:	Support:	Comments:	Petition:
11	4	0	0	0
Conservation area:	Courtfield			

1. Summary

- 1.1 The proposal for the landscaping of the garden, including the removal of some trees, is acceptable. The most visible trees would be retained whilst those that are to be removed are of little importance or are in a bad condition.

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 25 Wetherby Gardens is an end of terrace house on the southern side of the street. The terrace is comprised of three properties; the host property, plus Nos. 23 and 24. The garden, which is subject to the proposal, runs behind numbers 23-24. The open nature of the rear of this block means that the garden is visible, at a greater or lesser extent, from the rear windows of many properties on Rosary Gardens and Bina Gardens.
- 3.2 The garden adjoins Bina Gardens to the west, although views here are restricted by a relatively high wall meaning that only the trees are visible from the street.
- 3.3 The house, and its garden, are in the Courtfield Conservation Area.

4. The proposal and any relevant planning history

- 4.1 Planning permission is sought for the landscaping of the rear garden to increase the patio area and provide new garden steps, remove three trees and a shrub and provide a significant number of new trees and shrubs.
- 4.2 Planning application PP/19/02722 for proposed landscaping works withdrawn by the applicant in June 2019. This followed discussions with the Arboricultural team who raised concerns with the removal of some of the trees from the site. The current proposal responds to and overcomes these concerns.

Reference	Description	Decision
PP/16/08247	Amalgamation of two existing flats to form a single family dwelling and associated internal alterations.	G r a n t e d January 2017
PP/17/04264	Reconfiguration of Flat 1, 2 and 3 at lower ground, ground, first, second and third floors to create 2 no. one bedroom, 1 no. six bedroom residential unit together with addition of skylight to the roof.	G r a n t e d August 2017
PP/18/07654	Reconfiguration of 3x windows on front at first floor level; reconfiguration of 7x windows at all levels on side facade; reconfiguration of 2x windows at second and third floor level and installation of 1x circle window on rear facade; installation of rooflight and replacement of approved rooflight at roof level.	G r a n t e d January 2019
PP/19/02722	Proposed landscaping and removal of trees within rear garden.	W i t h d r a w n June 2019

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, CL6, CR5
Living conditions	CL5
Trees	CR6
Flooding and drainage	CE2

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

- 5.2 The main relevant supplementary planning documents adopted by the Council are:
/PP/19/08094: 2

- Courtfield Conservation Area Appraisal
- Trees and Development

These documents can be read online at:

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 With regards to the widening and reconfiguration of the steps; this is acceptable and would preserve the character and appearance of the garden and the wider conservation area. There are no concerns regarding the impact of the proposal on living conditions. Good living conditions would continue to be secured for those living nearby.
- 6.2 The decisive issues are:
- Whether the loss and provision of trees amounts to good arboricultural practice and the that the reconfigured landscaping results in a high quality outdoor space within the Courtfield Conservation Area.
 - Whether the re-landscaped garden would provide suitable drainage within this Critical Drainage Area.

Landscaping and trees

- 6.3 The proposal is acceptable. The submission includes an Arboricultural Report from Innovation Group dated 12/8/19 and a number of drawings from Park Hood showing the trees proposed for removal and those to be retained.
- 6.4 Compared with the withdrawn scheme, the two most visible trees T1 and T3 (birches) are now proposed to be retained along with a sweet gum much further into the garden. Three trees and a shrub are to be removed – two cherries, a birch and a Philadelphus – however the loss of these would not be particularly noticeable and, in particular, one of the cherries is in poor condition.
- 6.5 It is proposed to plant a number of ornamental pear trees, some pleached hornbeam and a birch. The number of trees is considerable, but the Council only has a measure of control over tree removals, not planting.
- 6.6 In terms of the impact on retained trees the works adjacent to T1 and T3 virtually all take place outside the Root Protection Areas. Provided the precautions outlined in the Arboricultural Report are followed, these trees should come to no harm.

Drainage

- 6.7 The site is in the Kensington Critical Drainage Area and the proposal requires the submission of a flood risk assessment (FRA). The FRA should analyse flood risk to the site and offsite as a result of the proposed development and recommend mitigation measures if needed.
- 6.8 In terms of surface water run-off and SuDS, the information submitted does not show if the

proposal will have any effect on the permeability of the site and it is not clear how the proposal will meet policy CE2g. The landscape plan shows hard and soft landscaping but further detail is required to meet our policy CE2g.

- 6.9 These details can however, be secured through the imposition of a pre-commencement condition.

Issues and balancing

- 6.10 Subject to compliance with conditions, the proposal would mitigate against flooding, provide a high quality open space that would preserve the character and appearance of the Courtfield Conservation Area through good arboricultural practice and would ensure that good living conditions continue for neighbouring occupants. The proposal would comply with policies CL1, CL3, CL5, CL6, CL11, CE2, CR5 and CR6 of the Local Plan 2019.
- 6.11 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 Information

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

8. Consultations carried out

Comments from interested parties

11 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 13/12/2019. A statutory notice advertising the application was posted near the site on 13/12/2019.

Four letters were received objecting to the application, summarised as:

	Comment	Response
1	The trees will cause disruption to neighbouring properties and will, particularly, block light.	The applicant is free to plant new trees in their garden as they wish as they do not require planning permission. Permission cannot be refused on these grounds.
2	The loss of mature trees would diminish the character of the conservation area.	Of the trees proposed to be removed, one is in a poor condition, and the others of no real aesthetic value. Their removal, and replacement with a number of new trees would, at the very least, preserve the character of the open space and the Courtfield Conservation Area.
3	The applicants have provided insufficient information regarding drainage mitigation in this critical drainage area.	This is agreed. However, this information can be secured through condition, with no development taking place until the details are approved.
4	The applicants have not corresponded with neighbours with regards to this proposal.	Although it is recommended that applicants speak with neighbouring occupants, there is no requirement for them to do so as the

		Council will consult with those affected.
5	The proposal seems to be unnecessary soil shifting that would only cause further disturbance through construction.	The necessity of a development is not a material consideration.

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Flooding Officer	Insufficient information has been provided with regards to flooding and the proposal is, therefore, contrary to policy CE2. However, this information can be secured through condition.	Paragraphs 6.7-6.9 Condition 3
Arboricultural Officer	The proposal would retain important trees whilst removing trees and shrubs of little value.	Paragraphs 6.3-6.6

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 6507-L-200, 6507-L-203, 6507-L-204, 6507-L-205, 6507-L-206, 6507-L-207, 6507-L-208, Arboricultural Report from Innovation Group dated 12/8/19.
Reason - The details are material to the acceptability of the proposals, and to ensure accordance with the development plan.
3. **Submission of details (Full PP)**
No development shall commence until full particulars of the following have been submitted to and approved in writing by the local planning authority and the development shall not be completed otherwise than in accordance with the details so approved:
 - (a) A flood risk assessment to analyse all potential flood risks to the site and ensure that the development is both, protected against flood risk and will not lead to offsite flooding.
 - (b) A detailed analysis of surface water run-off and attenuation volume required by policy CE2g (to achieve a reduction of 50% of existing rates including 40% climate change in the calculations and factoring in all flows into the sewer system including groundwater or other flows).
Reason – To accord with the development plan by ensuring that the character and appearance of the area are preserved and living conditions of those living

near the development suitably protected. 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 Conditions No. 3 imposes requirements which must be met prior to commencement of the development. Failure to observe these requirements could result in the Council taking enforcement action, or may invalidate the planning permission and render the whole of the development unlawful.
- 3 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](#)

- 4 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.
- 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 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.

The scheme was submitted in accordance with advice provided through pre-application discussions.

- 7 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)

8 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).

9 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

10 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) is available at www.rbkc.gov.uk/PP/19/08094 or electronically in our Customer Service Centre, Town Hall, Hornton Street.

Contact officer:

Mr. B. Brockey

Telephone: 07814-173-305