

122-124 KENSINGTON CHURCH STREET, W8






1:1,250

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Listed Buildings

-  Grade II
-  Grade II*
-  Grade I

Property and Land Applications Team
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**ROYAL BOROUGH OF KENSINGTON AND CHELSEA
REPORT BY EXECUTIVE DIRECTOR,
PLANNING AND BOROUGH DEVELOPMENT**

**APP NO. PP/10/03172/Q16
PLANNING APPLICATIONS COMMITTEE 10/05/2011
AGENDA ITEM NO. N52**

SITE ADDRESS

**122-124 Kensington
Church Street,
LONDON,
W8 4BH**

<u>APPLICATION DATED</u>	29/09/2010
<u>APPLICATION COMPLETE</u>	04/10/2010
<u>APPLICATION REVISED</u>	27/01/2011 & 25/02/2011

APPLICANT/AGENT ADDRESS

**Mr J. Dumas
Michaelis Boyd Associates,
9B Ladbroke Grove,
LONDON W11 3BD**

<u>LISTED BUILDING</u>	No	<u>CONS. AREA</u>	Kensington Palace	WARD	Campden
<u>CAPS</u>	Yes	<u>ENGLISH HERITAGE</u>	N/A	ART '4'	No

<u>CONSULTED</u>	<u>OBJECTIONS</u>	<u>SUPPORT</u>	<u>PETITION</u>	<u>COMMENTS</u>
19	3	0	0	0

Applicant S.Clarke

PROPOSAL: Erection of basement and ground floor rear extension, alterations to the existing first floor rear extension, fenestration alterations to rear, installation of new shopfront, reconfiguration of internal floors to retain two self contained flats on upper floors with commercial space within ground and basement, installation of a new duct to rear elevation, installation of extraction equipment and plant equipment on roof including acoustic screens at roof level and rear pyramidal roof light to ground floor extension.

RBK&C Drawing No(s):PP/10/03172 & PP/10/03172/A

Applicant's Drawing No(s): 07029/PP/103 Rev P2A; 07029/PP/104 Rev P2; 07029/OS MAP Rev P1; 07029/PP/001 Rev P1; 07029/PP/002 Rev P1; 07029/PP/003 Rev P1; 07029/PP/004 Rev

/PP/10/03172: 1

**P1; 07029/PP/005 Rev P1; 07029/PP/006 Rev P1; 07029/PP/007
Rev P1; 07029/PP/101 Rev P1; 07029/PP/102 Rev P2;
07029/PP/105 Rev P1; 07029/PP/106 Rev P1; 07029/PP/107 Rev
P1.**

RECOMMENDED DECISION: Grant planning permission

CONDITIONS/REASONS FOR THE IMPOSITION OF CONDITIONS:

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (C001)**
Reason - As required by Section 91 of the Town and Country Planning Act 1990, to avoid the accumulation of unexercised Planning Permissions. (R001)

2. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, 07029/PP/103 Rev P2A; 07029/PP/104 Rev P2; 07029/OS MAP Rev P1; 07029/PP/001 Rev P1; 07029/PP/002 Rev P1; 07029/PP/003 Rev P1; 07029/PP/004 Rev P1; 07029/PP/005 Rev P1; 07029/PP/006 Rev P1; 07029/PP/007 Rev P1; 07029/PP/101 Rev P1; 07029/PP/102 Rev P2; 07029/PP/105 Rev P1; 07029/PP/106 Rev P1; 07029/PP/107 Rev P1. (C068)**
Reason - The details are considered to be material to the acceptability of the proposals, and for safeguarding the amenity of the area. (R068)

3. **Noise emitted by the external building services plant hereby permitted, shall not increase the existing lowest LA90(10min) background noise level at any time when the plant is operating. The noise emitted shall be measured or predicted at 1.0m from the facade of the nearest residential premises or at 1.2m above any adjacent residential garden, terrace, balcony or patio. The plant shall be serviced regularly in accordance with manufacturers 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, it shall be switched off and not used again until it is able to comply. (C57c)**
Reason - To protect the amenities of nearby occupiers. (R57c)

4. **Odour expelled from any flue serving a stove, oven or other cooking device shall not cause annoyance to any adjacent occupied premises. If at any time the hereby approved plant is unable to comply with this Condition, it shall be switched off and not used again until it is able to comply. (C57g)**
Reason - To protect the amenities of nearby occupiers. (C57g)

5. **All work and work of making good shall be finished to match the existing original work in respect of material, colour, texture, and profile and, in the case of brickwork, facebond and pointing. (C071)**
Reason - To preserve and enhance the character and appearance of the Conservation Area. (R072)
6. **The pyramidal skylight hereby permitted shall be constructed using only obscured glazing, fixed shut and so maintained. (C093)**
Reason - To safeguard the amenity of neighbouring property, and in particular to prevent overlooking. (R091)
7. **Notwithstanding the hereby approved plans, further details of the '200mm dia vent pipe mushroom head' as depicted on 07029/PP/102 Rev P2 shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing and the development shall not be implemented other than in accordance with the hereby approved details and shall thereafter be so maintained.**
Reason - To protect the amenities of surrounding residents.
8. **No more than 120 customers shall be on the premises at any one time.**
Reason - To safeguard the amenity of neighbouring properties and the Borough's highway and parking network.
9. **All door widths must be at least 1.0 metre wide.**
Reason - In the interests of providing safe and convenient access to the site which is inclusive of all.

INFORMATIVES

1. I09
2. I10
3. I11
4. I21
5. I38
6. The applicant is advised that any signs depicted or otherwise on the submitted plans require a separate consent for the display of advertisements.
- I68. I68

1.0 SITE

- 1.1 The subject site is a ground floor restaurant located at 122-124 Kensington Church Street and a small ground floor retail shop within the front half of 122 Kensington Church Street. The restaurant use occupies both basement areas of 124 and 122 Kensington Church Street, the ground floor of 124 and part (the rear) of the ground floor of 122 Kensington Church Street.
- 1.2 The property is not listed but is located within the Kensington Palace Conservation Area.

2.0 PROPOSAL

- 2.1 Planning permission is sought for:
- 2.2 Erection of a basement and ground floor rear extension, alterations to the existing first floor rear extension, fenestration alterations to the rear, the installation of a new shopfront, the reconfiguration of the internal floors to retain two self contained flats on the upper floors with commercial space within the ground and basement, the installation of a new duct to the rear elevation, installation of extraction equipment and plant equipment on the roof including acoustic screens at roof level and a rear pyramidal roof light to the ground floor extension.
- 2.3 The proposal was amended following comments from the Council's Conservation and Design team. The acoustic screen has been reduced in width and set back from the rear parapet to reduce its visual prominence. The vent depicted on the 1st floor roof plan has been moved closer to the facade of the existing building, away from the boundary.
- 2.4 Furthermore, a large majority of the scheme has previously been granted planning permission under PP/08/03163. Since then, the Core Strategy has been adopted with several UDP policies 'saved'. The changes from the previously approved scheme to the current proposal relate to:
- The alteration of the shop front including planters and the installation of a new flue to the rear elevation, extraction equipment and plant equipment on the roof including acoustic screens on the roof and alterations to a previously approved rear roof light to a pyramidal roof light.

3.0 RELEVANT SITE HISTORY

3.1 122 Kensington Church Street

- 3.1.1 PP/09/01725: Change of use of part of the ground floor front from

retail shop (Class A1) to form part of existing restaurant (Class A3). Approved: 24/09/2009. This application has not been implemented, but approval has been granted for the loss of the ground floor shop that currently exists.

3.2 122-124 Kensington Church Street

3.2.1 CA/10/01688: New illuminated fascia sign displayed across the frontage of the buildings and new illuminated menu board. Refused: 15/07/2010.

3.2.2 PP/10/01146: Installation of new shopfront and installation of planters to frontage and alterations further to earlier planning permission PP/08/03163 involving relocation of rooflight on flat roof of ground floor extension and construction of two rooflights. Withdrawn: 01/09/2010.

3.2.3 PP/08/03163: Erection of a basement and ground floor rear extension, alterations to the existing first floor rear extension, fenestration alterations to the rear, the installation of a new shopfront and the reconfiguration of the internal floors to retain two self contained flats on the upper floors with commercial space within the ground and basement. Approved: 23/12/2008.

3.2.4 TP/87/00758: Extension of existing restaurant at no.124 into basement area at no.122 with small basement infill extension, erection of two new shopfronts and change of use of launderette at no.122 to retail shop. Approved: 10/06/1987.

3.2.5 TP/87/02578: Installation of new shopfronts alterations in the front basement area and the installation of an extract duct and air condition plant at the rear. Approved: 01/09/1988.

4.0 PLANNING CONSIDERATIONS

4.1 The main considerations are

- Principle of development;
- The impact of the proposal on the appearance of the building, street scene, and upon the character and appearance of the Conservation Area;
- The impact of the proposal on levels of amenity enjoyed by the occupiers of neighbouring properties with regard to light, increased sense of enclosure, noise disturbance, odour, and privacy;
- Transportation.

4.2 The relevant policies against which to assess this proposal are contained within the Core Strategy of the Local Development Framework, as well as certain policies 'saved' from the Unitary Development Plan 2002 (as amended 28th September 2007).

4.3 The relevant Core Strategy policies are:

CL1 (Context and Character)
CL2 (New Buildings, Extensions and Modifications)
CL3 (Historic Environment)
CL5 (Amenity)
CR4 (Streetscene)
CE6 (Noise and Vibration)
CF1 (Location of New Shops)
CF2 (Retail Development in Town Centres)
CF3 (Diversity of Uses in Town Centres)
CT1 (Improving Alternatives to Car Use)

4.4 The relevant UDP 'saved' policies to this application are:

CD44 (Resist Additional Storeys and Roof Level Alterations)
CD45 (Permit Additional Storeys and Roof Level Alterations)
CD47 (Resist Proposals for Extensions)
CD73 (Resist Open Shop Fronts)
CD74 (Resist Shop Fronts that Remove Separate Access to Residential)

4.5 Also for consideration is 'The London Plan, Spatial Development Strategy for Greater London, as consolidated with alterations since 2004. In this particular instance, there are no specific Policies relevant to this application contained within this plan.

4.6 The Kensington Palace Conservation Area Proposal Statement has also been given weight, as Supplementary Planning Guidance.

4.7 The Core Strategy of the Local Development Framework for the Royal Borough was adopted on December 8th 2010, and contains planning policies which have succeeded the majority of those in the Unitary Development Plan (UDP). For the purposes of S.38(6) of the Planning and Compulsory Purchase Act 2004, the 'Development Plan' now comprises the Core Strategy, the London Plan Consolidated with Alterations since 2004, plus relevant 'saved' policies from the UDP.

4.8 Principle of Development

4.8.1 The majority of policies considered in the grant of the previous planning permission PP/08/03163 have been replaced by Core Strategy Policies with a select few UDP policies 'saved' (see 4.3 and 4.4 above). The premise of these policies remain the same in that good quality design is required without causing harm to either the amenities of surrounding neighbours, the visual amenity of the surrounding area, or the Conservation Area. The Core Strategy goes further in that development should be a general improvement to the environment.

4.8.2 It is considered that the previously approved basement and ground floor rear extensions, including fenestration details, and the retention of two self contained flats on the upper floors are still considered to be acceptable in principle, given that the applicant can still implement the previously approved planning permission and these aspects of the scheme remain unchanged.

4.8.3 The proposal utilises the entire floor space of 122 and 124 Kensington Church Street as a restaurant (A3 use class). This results in the loss of an existing shop that occupies half of the floor space within 122. This change of use from A1 to A3 has received planning permission (PP/09/01725), however, this has not yet been implemented. Since this application was approved, the Core Strategy Policies CF1, CF2, CF3 control shops and Town Centre Uses. The proposed loss of the shop is considered to be acceptable given that Clarke's is the only A3 use within the immediate block and the loss of a small retail unit is not considered to discernibly harm the functionality of this portion of the street to provide shops.

4.8.4 The proposed changes to the shop front, plant equipment, and rear extension roof light will be fully considered below.

4.9 Design and Appearance

4.9.1 The proposal is considered to be acceptable for the following reasons:

- The rear duct and extraction equipment will be located in the same position as existing equipment. Whilst the new equipment is larger, the increase in size is not considered to harm the appearance of the building to a discernible level to what is currently occurring with the existing equipment;
- The relocation of plant equipment to the roof is welcomed with the equipment set in to the roof nearer the front parapet, reducing views to from the wider environment. Furthermore, the character of the terrace and building are not considered to be compromised given the set back and screened nature of the roof top, addition limiting vantage points to the plant equipment from the surrounding area. The proposal is therefore considered to be in general accordance with 'saved' UDP Policies CD44 and CD45;
- The proposed acoustic screen has been reduced in size and set back nearer the plant equipment, reducing its views from the wider environment;
- The shop front alterations are considered to be sympathetic to the building and street scene retaining the individual dimensions of each property. Comments have been received from the Council's Conservation and Design Officer supporting the proposal;
- The fascia sign depicted on the submitted plans are not considered to be acceptable, however, this does not form part of the application and would be subject to an advertisement

consent. An informative to this effect is recommended;

- The proposed pyramidal roof light is raised 350mm from the flat roof of the ground floor extension, set in towards the rear elevation and set behind an existing 200mm parapet and trellis screening. The design and siting of the proposed roof light is considered to be subservient to the existing building and rear extension.

4.9.2 Overall, the proposal is considered to be acceptable and is visually considered to fit well within the existing built environment, the design and appearance of the existing building, the terrace, Conservation Area, and street scene generally.

4.10 Impact on the Amenities of Adjoining Neighbours

4.10.1 The proposal is considered to have no discernible affect on the amenities of neighbouring properties with regards to sense of enclosure, loss of daylight/sunlight, outlook, noise disturbance, odour for the following reasons:

- The basement and ground floor rear extensions have received planning permission under PP/08/03163. Their scale, bulk, massing is located behind large walls that currently screen an existing rear courtyard. The extensions would therefore be no higher than these walls and would not exacerbate any sense of enclosure that is currently created by the existing built environment and screening measures;
- The location of the proposed plant equipment will be located on the roof and surrounded by an acoustic screen including a silencer (a part of the plant equipment that aids in reducing noise by enclosing/insulating the 'noisier' parts of the plant equipment) on the extraction fan. This situation is considered an improvement on what is currently occurring given equipment will be newer, and is located in a set back position on the roof of the building. Currently the roof is clear of plant equipment and is enclosed by a high parapet. A condition is recommended ensuring that noise generated by the plant is of an acceptable level and that any odours from the extraction equipment are adequately controlled;
- Windows to be replaced on the rear facade will not increase any overlooking beyond what is occurring at present;
- The overall bulk of the building remains similar with no discernible impact on daylight/sunlight, sense of enclosure on surrounding neighbours;
- The proposed pyramidal roof light will be obscured glazed preventing overlooking to neighbouring properties. A Condition to this effect is recommended;
- The Council's Access Officer has viewed the proposal and recommends a condition requiring all door widths to the new shop front to be at least 1m should the application be approved. This is due to one of the new doors having a width (when scaled from the plans) of 850mm;
- A vent has been proposed at first floor level. A condition

requiring full details of this vent is recommended to ensure that it will not cause nuisance to surrounding neighbours.

4.10.2 Overall, the proposal is not considered to harm the amenities of surrounding neighbours.

4.11 Transportation

4.11.1 Previous comments received from the Council's Transportation Team under the approved change of use application PP/09/01725 state:

4.11.2 *'Restaurants can generate a significant level of parking demand, particularly 'destination' type restaurants. The subject premises has a floor area of at least 200sqm and could accommodate 100 diners depending on the seating configuration. This restaurant has the hallmarks of a 'destination' type restaurant to which people travel specifically to dine. Such restaurants generate significant parking demand.*

4.11.3 *The surrounding area experiences significant parking stress in the evening. According to our most recent parking survey, 91% of residents' bays and 92% of pay and display bays within 200m of the premises are occupied in the evening. Any uses generating significant parking demand would be unacceptable at this location.*

4.11.4 *The applicants have submitted a letter dated 25th August providing the following information:*

- *The existing capacity of the restaurant is 100 seats.*
- *The reconfiguration of the restaurant would allow a further 20 seats to be provided.*

4.11.5 *The current restaurant is not restricted as to the number of seats that it can provide. The capacity of the restaurant is in effect limited by the physical size of the premises. The premises has been expanded a number of times and it is now proposed to increase the A3 floor area again. Given the circumstances of the site, including the saturated parking conditions experienced in the vicinity, it is now considered necessary to impose a reasonable condition on the number of covers that can be provided by the restaurant.*

4.11.6 *I accept the applicants estimate that the proposed change of use may attract an additional four cars into the area. Given the area's saturated parking conditions, any additional parking demand here is unwelcome. Accounts must however be taken of the fact that the premises currently enjoys an unrestricted consent and of the fact that the additional parking demand will only arise when the restaurant is nearly full'.*

4.11.7 Planning application PP/09/01725 can still be implemented, and as such the change of use of the small A1 retail shop to A3 restaurant was previously considered acceptable in principle with any material impact on the Borough's highway system and parking considered to be acceptable subject to the number of covers being limited to 120 persons.

4.11.8 Therefore, having regard to previous transportation comments, it is recommended that the number of covers are limited to 120 to protect the local highway and parking network.

5.0 PUBLIC CONSULTATION

5.1 Occupiers of 19 neighbouring properties have been notified of the proposal. In addition, since the property is in a Conservation Area, the application was advertised on site and in the local paper on 15/10/2010.

5.2 3 letters of objection have been received. Matters raised by objectors being (response below):

5.2.1 Loss of an existing retail shop;

PP/09/01725: Change of use of part of the ground floor front from retail shop (Class A1) to form part of existing restaurant (Class A3). Approved: 24/09/2009. This application has not been implemented, but approval has been granted for the loss of the ground floor shop that currently exists. As considered above under 4.8.3, the loss of the small shop is considered to be acceptable, and would not harm the viability of the shopping area.

5.2.2 Removal of shop's name from fascia;

The application is for planning permission only and does not extend to the signage depicted on the submitted drawings. An informative to this effect is recommended.

5.2.3 The large double hung sash windows will be source of late night light pollution, and when opened noise and odour;

The windows replace existing windows, and whilst slightly larger, the nature of the affects stated above would not change from the existing situation.

5.2.4 Increase in the height of the parapet through the addition of an acoustic screen;

The parapet of the existing building does not increase. Upon officer advice, the application has been amended to push the acoustic screen further from the edge of the parapet. This is considered to reduce the bulk and appearance of the acoustic screen.

5.2.5 There is little detail on the proposed mushroom head vent pipe located adjacent to the rear parapet wall;

The scheme was amended to locate this vent closer to the facade

of the building away from the boundary, however, there is still little detail of the proposed vent. A condition is recommended for the applicant to submit further details of the vent prior to the commencement of works on site.

5.2.6 The roof light should be obscured glass, fixed shut and non openable;

A condition to this effect is recommended.

5.2.7 The pitched roof light does not complement the cramped conditions to the rear of the property;

The proposed pyramidal roof light is raised 350mm from the flat roof of the ground floor extension, set in towards the rear elevation and set behind an existing 200mm parapet and trellis screening. The design and siting of the proposed roof light is considered to be subservient to the existing building and rear extension.

6.0 RECOMMENDATION

6.1 Grant planning permission.

**JONATHAN BORE
EXECUTIVE DIRECTOR, PLANNING AND BOROUGH DEVELOPMENT**

List of Background Papers:

The contents of file PP/10/03172 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

**Report Prepared By: ANTR
Report Approved By: ER/DT
Date Report Approved: 21/04/2011**

PSC05/11/ANTR.REP

21/04/2011 08:32:52

Erection of basement and ground floor rear extension, alterations to the existing first floor rear extension, fenestration alterations to rear, installation of new shopfront, reconfiguration of internal floors to retain two self contained flats on upper floors with commercial space within ground and basement, installation of a new duct to rear elevation, installation of extraction equipment and plant equipment on roof including acoustic screens at roof level and rear pyramidal roof light to ground floor extension.

SUMMARY OF REASONS FOR DECISION

You are advised that this application was determined by the Local Planning Authority with regard to Development Plan policies, including relevant policies contained within the Core Strategy of the Local Development Framework, the London Plan, as well as policies 'saved' from the Unitary Development Plan, and was considered to be in compliance with the relevant policies. In particular, the following policies were considered:

- CL01 (Context and Character)
- CL02 (New Buildings, Extensions & Modifications to Existing Build)
- CL03 (Historic Environment)
- CL05 (Amenity)
- CL06 (Small-scale Alterations and Additions)
- CE06 (Noise and Vibration)
- CD47 (to resist extensions in eleven specified situations)
- CR04 (Streetscape)
- CD73 (resist open shopfronts)
- CD74 (shopfronts and access to residential accommodation)
- CF01 (Location of New Shop Uses)
- CF02 (Retail Development within Town Centres)
- CF03 (Diversity of uses within Town Centres)

The London Plan was taken into consideration. No policies were considered of particular relevance to this application.

Weight was also given to relevant local Supplementary Planning Guidance

and Statements, including the **Kensington Palace** Conservation Area Proposals Statement. This document was prepared in line with Government guidance and adopted following public consultation.

The material circumstances of the case, including site history, location, and impact on amenities were considered.

In addition, consideration was given to the results of public consultation.

It was concluded that there was no impact upon the amenities of adjoining occupiers, or upon the character or appearance of the area, that would justify a refusal in this case.

The full report is available for public inspection at the Planning Information Office, Ground Floor, Town Hall, Hornton Street, London, W8 7NX.