

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

PLANNING APPLICATIONS COMMITTEE 09/04/2020

REPORT BY THE DIRECTOR, PLANNING AND PLACE

Application:	PP/20/00006	Agenda Item:	N18		
Address:	23 Palace Gardens Terrace, LONDON, W8 4SA				
Proposal:	Erection of a rear garden studio				
Applicant:	SpencerHarvard-Walls				
Agent:	Andrew Hanson Hanson Architects				
Properties notified:	Objections:	Support:	Comments:	Petition:	
16	4	0	0	0	
Conservation area:	Kensington Palace				

1. Summary

- 1.1 The proposal would have an acceptable visual impact, would preserve both the character and the appearance of the Kensington Palace Conservation Area, and would continue to ensure good living conditions for neighbouring occupiers. The proposals would safeguard existing trees of amenity value and would mitigate appropriately against the threat of surface water flooding.

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 property is a lower ground floor level flat within a Victorian mid-terrace building, situated on the western side of Kensington Palace Gardens with the rear garden backing onto those of Nos. 24 and 26 Brunswick Gardens. The property is not listed but is within the Kensington Palace Conservation Area.
- 3.2 This group of properties retains much of its original architectural and historic character and appearance on both elevations and makes a positive contribution to the conservation area. The property is subject to Article IV directions no.s 57 and 100 respectively restricting

permitted development rights in relation to the following works:

i) alterations, improvements and extensions to any part of both front and rear elevations; the provision of hard standing for vehicles and; the painting of the exterior of any parts fronting the highway and;

ii) the excavation and provision of basement extensions and light wells.

4. The proposal and any relevant planning history

- 4.1 Planning permission is sought for the erection of an outbuilding within the rearmost parts of the property's rear garden area, in connection with the lower ground floor level flat.
- 4.2 The proposed outbuilding would be timber clad and would feature a flat roof profile. It would measure approximately 2.5m in height, 3.9m wide and 2.4m deep.
- 4.3 The original rear garden area of this property measured approximately 8.5m deep by 6m wide. Given the property has been extended at rear lowermost level with a 1m deep projecting extension (around 2003), the currently existing garden area measures approximately 7.5m deep by 6m wide.

Reference	Description	Decision
PP/03/01468	Erection of an extension at rear lower ground floor level.	Granted 04th Sept 2003
PP/16/03831	Insertion of six opening roof lights into slate pitched roof, 3 to front slope and 3 to rear slope.	Granted 04th August 2016
PP/16/03843	Extension to pitched roof to form a mansard extension to the front and rear with a slate clad roof, lead clad dormers and white painted timber sash windows.	Refused 12th August 2016

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 2019
Conservation Area	CL1, CL2 and CL6
General townscape	CL3 and CL11
Living conditions	CL5
Private Open Spaces/Trees	CR5 and CR6
Flooding	CE2

These policies can be read online at:

- Local Plan:
<https://www.rbkc.gov.uk/planning-and-building-control/planning-policy/local-plan/local->

Other local strategies or publications

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

- Kensington Palace Conservation Area Proposal Statement
- Trees and Development

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 proposal, due to its height and location (positioned at the rearmost parts of the property's rear garden area, away from main neighbouring residential buildings), would have an acceptable impact upon the living conditions of the occupiers of neighbouring properties in terms of sense of enclosure, sunlight and daylight if compared to the existing conditions. In addition, given the structure would largely remain concealed by existing side and rear boundary fences/walls coupled to the fact that the existing rear garden is already in use as ancillary outdoor area for the occupiers of the lower ground floor level flat, it would once again have an acceptable impact in terms of overlooking levels as such.
- 6.2 The information provided as part of the application on flooding is acknowledged (i.e. this includes mitigation measures in the form of the provision of water butt plus an increase of permeable surfaces in the region of 17.5 sq.m). Whilst this is the case, such measures still fail to meet the current policy CE2 requirements in that a 50% improvement must be achieved over the whole site (and not just the garden). As such, recommended condition 4 is necessary to require additional flood related information prior to the outbuilding being brought into use/occupation, to accord with policy CE2 of the Local Plan (LP).
- 6.3 There are no trees close to the position of the new garden structure. Therefore, the proposals would result in no harm or loss of trees of amenity value, in line with LP policy CR6.
- 6.4 The decisive issue is:
- i whether the proposals would preserve or enhance the character or appearance of the property and those of the wider Kensington Palace Conservation Area.

Character and Appearance

- 6.5 The proposed rear garden outbuilding would sit below the rear garden boundary wall and only marginally above both northern and southern sides boundary walls. The property benefits from a well proportioned garden and the new structure which would be set amongst new planting, would be sited at the back end of the garden therefore some distance away from existing residential buildings.
- 6.6 The existing rear garden space contributes positively to the character of the area, which retains a strong feel of openness from the application garden and those of the western,

northern and southern adjacent properties. The proposed outbuilding would be reasonably scaled in relation to the size of garden, and has been designed to sit discreetly and respect the setting of the main parent building. The fact that many gardens around do not have outbuildings does not mean that the one proposed in this instance would be harmful. It would be one storey, would occupy a small proportion of the rearmost parts of the site, would be of a suitable size, design and materials and it would not be used as a separate dwelling. Planning permission would be required if it was proposed in the future to try to form a dwelling.

- 6.7 Due to its size, design and position, it would therefore have an acceptable visual impact upon the character and appearance of the area. It would be centrally located and set away (1m approximately) from both southern and northern side boundary walls where the proportions of the existing garden remaining defined and legible. The structure would feature a zinc roof, with walls clad in timber which is an appropriate material for this sort of rear garden location. Timber is an appropriate material for the sides. Zinc for the roof is perhaps less 'traditional', but would have limited visibility and would not appear harmfully in any views. Furthermore, added planting would be provided to further screen the structure within the rear garden.
- 6.8 The structure would thus not significantly reduce the sense of openness that exists and the existing character and appearance, of the vicinity would be preserved.
- 6.9 The proposed outbuilding would be of an appropriate size, similar to other garden structures found across the borough. The proposed structure has been designed to an acceptable design standard and would be constructed of materials which are akin to those found in the similar rear garden locations. As such, the proposed outbuilding would be successfully assimilated into the townscape at this location and is acceptable in terms of LP policies including CR5, CL1, CL2 and CL3.

Issues and balancing

- 6.10 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.
- 6.11 The proposals would safeguard the living conditions of the occupiers of neighbouring properties, would preserve the character and appearance of the surrounding area and would have no adverse impact upon trees of amenity value. As such the proposals are policy compliant and are acceptable.

7. Community Infrastructure Levy Information

- 7.1 If permitted and built, the additional floorspace in the proposal would neither require a payment towards funding additional infrastructure under the Borough's Community Infrastructure Levy nor a payment towards funding Crossrail under the Mayor of London's Community Infrastructure Levy.

8. Consultations carried out

Comments from interested parties

16 nearby owners/occupiers were notified directly of the application. The application was advertised in the Gazette on 10th January 2020. A statutory notice advertising the application was posted near the site on 10th Jan 2020.

4 letters were received objecting the application, summarised as

	Comment	Response
1	I am a co-freeholder of this building and I have not been notified by the LPA on this development.	Council's records indicate that consultation letters were sent to adjoining sites plus flats at the upper storeys of the application site building. Furthermore, site and press notice were equally given. Therefore, the LPA has in this instance complied with its statutory public consultation requirements.
2	We received no prior notice of the applicant's intention to submit the application.	The applicant has since confirmed that notice letters have now been sent to all parties having a legal interest in the land.
3	<p>The property is sited within a primary conservation area and the rear garden structure which is of poor quality and also unattractive, will have an adverse visual impact upon this garden location and conservation area as such. If approved the proposals would set a bad precedent.</p> <p>The main property features an extension which already projects into the garden further than other properties.</p>	The proposed garden structure would be similar in terms of design, siting, materials and dimensions, to a number of other similar garden structures now featured elsewhere in the Borough (this includes a number of other conservation areas). Therefore, the proposed outbuilding would be well integrated within its garden location and would thus have an acceptable visual impact upon the character and appearance of the Kensington Palace Conservation Area.
4	The structure would subject the occupiers of the upper storey flats to loss of privacy. The structure will result in a permanent aspect into all our rear windows.	As explained in para 6.1 above, the proposals would safeguard the living conditions of the occupiers of neighbouring properties in privacy/overlooking terms. Given its lower level location and oblique angle, it would be practically impossible for anyone looking out from the structure to benefit from views of the internal parts of the rear upper floor level residential rooms belonging to the other flats.

Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Flood Officer	Acceptable subject to a condition requiring further information.	Para 6.2 and Condition 4

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 *IN/050; IN/100; GA/054 and; GA/100 rev. B.*

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 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.

5. Code of Construction Practice

No development shall commence until:

A) A Code of Construction Checklist and Site Construction Management Plan (SCMP) for the development have been approved, in writing, by the Council's Construction Management Team, and then

B) Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.

[The Council's Construction Management Team work independently of the planning department. For further information regarding the Code and how the required details should be submitted to them, the Council's Construction Management Team can be contacted on email at: dehcmt@rbkc.gov.uk or tel: 020 7361 3002]

Reason - To mitigate the impact of construction work upon the levels of amenity that neighbouring occupiers should reasonably expect to enjoy, and to comply with the Basements and Transport and Streets SPDs and policies CL5, CT1, CE5 and CE6 of the Local Plan 2019. 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 Local Plan 2019.

5. Sustainable Drainage Systems (SuDS) details

No development shall commence until a SuDS strategy with the following information has been submitted to, and approved in writing by, the Local

Planning Authority:

- **A detailed analysis of surface water run-off and attenuation volume (to demonstrate how the proposed measures will aim to comply with Policy CE2 (g), which is to achieve a reduction of 50% of existing rates including climate change in the calculations and factoring in all flows into the sewer system including groundwater or other flows).**
- **Information about the proposed SuDS types, their location, attenuation capacity, specification, structural integrity, construction, operation, access, and maintenance. (More sustainable green SuDS should be favoured over attenuation tanks).**
- **Section/profile drawings of the SuDS if relevant (green roofs, blue roofs, sub-base attenuation, permeable paving, planters, species, etc.).**
- **Drainage plans to show clearly how surface water run-off will be conveyed to the SuDS and any connections to the sewer system if necessary.**

During construction of the development hereby permitted the approved Sustainable Urban Drainage System (SuDS) measures shall be fully implemented and maintained thereafter.

Reason – To reduce flood risk and to contribute to sustainability in accordance with policy CE2 of the Local Plan.

INFORMATIVES

- 1 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.

- 2 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.
- 3 Conditions 4 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.
- 4 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](#)

- 5 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.

- 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) is available at www.rbkc.gov.uk/PP/20/00006 or electronically in our Customer Service Centre, Town Hall, Hornton Street.

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