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ROYAL BOROUGH OF KENSINGTON & CHELSEA

REPORT BY EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE 19/01/2000 APP NO. PP/99/02384/COTH/47
AGENDA ITEM NO. 2006

ADDRESS

Kensington Gardens Royal
Park,
Kensington, W.8

APPLICATION DATED 18/11/1999

APPLICATION COMPLETE 23/11/1999

APPLICATION REVISED N/A

APPLICANT/AGENT ADDRESS:

The Royal Parks
Project Manager
The Old Police
House,
Hyde Park, London
W2 2UH

**RECOMMENDATION
ADOPTED.**

* ex was can etc.

CONSERVATION AREA Kensington Palace CAPS No

ARTICLE '4' No WARD Campden

LISTED BUILDING NO

HBMC DIRECTION N/A

CONSULTED 28

OBJECTIONS 1

SUPPORT 0

PETITION 0

Applicant The Royal Parks

PROPOSAL:

Construction of memorial playground to Diana, Princess of Wales. (Circular 18/84 Application)

RBK&C Drawing No(s): PP/99/02384

Applicant's Drawing No(s): 1762/01/03T, 06T, 07T, Landscape Masterplan, 08T, 1748/001A and Design Statement dated December 1999

RECOMMENDED DECISION: Raise no Objection

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INFORMATIVES

You are advised that (1) works to be carried out beneath the tree canopies should be to an agreed method statement to comply with the appropriate section of BS 5837 "Trees in relation to Construction", (2) all contractors are reminded that careless or uninformed work near trees can cause a great deal of damage and that all excavations and other works should be carried out with this in mind, and (3) all contractors should be made aware of the importance of the Parish boundary stones and that these should be protected during the course of building works.

1.0 SITE

- 1.1 This application concerns a site of just under 2ha, located on the northern side of Kensington Gardens, to the North of Kensington Palace, to the West of the Broadwalk, near to the existing Black Lion Gate and to South of Orme Square within the City of Westminster. The site is between 3 and 5 minutes walk from Queensway Underground station.
- 1.2 The site is currently occupied by grass, paths, trees, a cafe, a children's playground, and contains the preserved "Elfin Oak". Many of the trees are of particular note, and the Elfin Oak is Listed as being of particular historic importance. The existing playground was established in 1909 with the help of donations from J. M. Barrie (the author of Peter Pan).
- 1.3 Kensington Gardens are designated as a Grade 1 historical landscape in the English Register of Parks and Gardens, and the park is also included within two Conservation Areas. The whole of the application site area is within the Kensington Palace Conservation Area designated by the Royal Borough. Kensington Palace itself is Listed Grade I.

2.0 DETAILS OF PROPOSAL

- 2.1 This Council is notified, under the procedures recommended in Circular 18/84, of proposals by the Royal Parks Agency to create a memorial playground for children over an area of approximately 60m X 120m.
- 2.2 The existing Elfin Oak, clock tower, drinking fountain, and Edwardian seating shelter are to be retained, and a new toilet block erected. The new w.c building would have an elliptical roof, reach a maximum height of 6m, and be covered in a turfed green roof to blend in with the garden environment.
- 2.3 It is proposed that the play area should comprise the following elements:
- A water feature
 - Wheelchair accessibility
 - Planted areas to make dens and hiding places
 - "Fairground" mirrors
 - Musical pathways
 - Picnic tables and benches for adults and children
 - Small wooden play houses containing wall games, tables, chairs, cupboards etc
 - Differing height "talk tubes"
 - Scented paths
 - Wind tunnel area
 - Sonic area with pipes and bells

- Periscopes at different heights to provide views of vegetation, gardens and skyline
 - Sculptures for children to touch and play with
 - Caves and tunnels
- 2.4 The garden area would be divided into themes, being the High Seas (including a pirate ship reaching 12m in height to its masthead), Tree House Encampment, Movement and Musical Garden, Wigwam Camp, Oak Tree Village, and Mermaids fountain.
- 2.5 It is intended that all parts of the memorial playground should be accessible to disabled children. As far as is possible, the various features and structures of the playground will be accessible, but there are clearly certain limitations such as the pirate ship, for example.
- 2.6 Within the boundary of the new playground there are a total of 18 trees, of which it is proposed to remove 8 to facilitate the proposal.
- 2.7 The playground would be surrounded by a 1.8m boundary railing, punctuated by the main pedestrian entrance and by three emergency/maintenance vehicle access gates.

3.0 PLANNING CONSIDERATIONS

- 3.1 The proposed memorial playground must be assessed in terms of its impact upon the function and appearance of this part of Kensington Gardens, and consequent impact upon the character or appearance of the Conservation Area. It must also be considered in terms of any likely impact upon the levels of amenity currently enjoyed by residents of nearby properties by virtue of traffic congestion, noise or other disturbance.
- 3.2 Since the death of Diana, Princess of Wales there has been extensive public debate, often emotive and not necessarily material town planning considerations, concerning the construction of a suitable memorial. Only the planning considerations outlined in paragraph 4.1 above are pertinent to this application under Circular 18/84.
- 3.3 The relevant planning policies are contained within the "Conservation and Development", "Leisure and Recreation", and "Transportation" chapters of the Unitary Development Plan (UDP).

Conservation Considerations

- 3.4 Policy CD52 requires that any development in a conservation area preserves or enhances the character or appearance of the area. Policy CD53 sets down various criteria against which proposals within Conservation Areas must be assessed. Other Policies seek to protect the special character of Kensington

Gardens, protect public and private open space, and protect and enhance existing play areas.

- 3.5 Given that the majority of the site area is already laid out as a children's playground, has been used as such for a considerable period of time, and is included within a public park the main purpose of which is leisure and recreation, it is not considered that the Policies of the Unitary Development Plan of this Council raise any objection in principle to the proposed play area.
- 3.6 The various structures of historic importance, including the Elfin Oak, are preserved in situ, and outside the boundary railing to the proposed garden to ensure their accessibility to be appreciated by all, whether visiting the memorial playground or not. There would clearly be an impact upon the setting of these features, however a changed setting does not necessarily mean a harmed setting and, in this case, it is not considered that any harm to their setting would result.
- 3.7 The various structures proposed for the playground, such as the pirate ship, are all considered to be compatible with the function of the space. Using natural materials such as oak, sand, grass, and play-bark, it is not considered that the playground structures would constitute intrusive or discordant features. The new w.c building would have an elliptical roof and reach a maximum height of 6m. The landscaping and planting is designed to minimise views into the playground area and to, as far as possible, keep the playground and its features a surprise to be enjoyed on entering the site. For example, the pirate ship would reach to a height of 12m to the tip of its mainmast, but would be obscured by trees close to it reaching to over 14m. It is concluded that the playground structures would not have a visual impact beyond the immediate realms of the playground itself.
- 3.8 It is not considered that there would be any material impact upon the setting of Kensington Palace, the integrity of the Broadwalk, the setting of Black Lion Gate or the boundary railings to Kensington Gardens, or to the character or appearance of the Gardens or Conservation Area.

Arboricultural Considerations

- 3.9 Of the 8 trees to be removed under these proposals, 3 are mature specimens and 5 semi-mature. At the time of writing two mature trees (no.1 and 2), a Lime and a Plane, have already been felled.
- 3.10 The loss of the two trees, and their untimely removal, must be seen as regrettable. However, this area of Kensington Gardens is well covered by trees and the loss of these two is not considered to result in such an impact upon the character or appearance of the gardens so as to justify a formal objection. The Council's Arboriculturist observes that the remainder of the trees to be felled are of lesser amenity value than the two already felled. Overall, given the planting to be associated with the scheme, no objection is raised to the felling of these trees, although concern is highlighted regarding the protection of the

retained trees. The Arboriculturist is concerned that the following mature trees, Plane (no.3), Horse Chestnut (no.s 8, 13 and 14) and Maple (no.12) may be particularly vulnerable to damage as a result of construction works.

- 3.11 Works are proceeding at this site and there is concern at the need to prevent damage to the retained trees. Therefore, an Informative is recommended to remind the applicants and their contractors that (1) works to be carried out beneath the tree canopies should be to an agreed method statement to comply with the appropriate section of BS 5837 "Trees in relation to Construction", and (2) the applicants and their contractors are advised that careless or uninformed contractors can cause a great deal of damage and that all excavations and other works are carried out with this in mind.

Traffic and Amenity Considerations

- 3.12 Any proposal for a memorial playground that would be expected to draw significant numbers of extra people, either on foot or by vehicle, to the streets of the Royal Borough, would be likely to find objection under the general Unitary Development Plan aim for traffic restraint and protection of residential amenity. Although this is the first formal application under Circular 18/84, it is likely that previously mooted proposals for a memorial garden to the South of Kensington Palace would have resulted in objection on such a ground, amongst others.

- 3.13 The playground now proposed would have only one entrance, positioned close to the existing playground entrance just West of the existing cafe building, which would remain. To the North of this would be the block containing the toilets and supervisor's office, and it is intended that the playground is designed in order that it could be supervised by one person, and the supervisor's office is located with this purpose. The Royal Parks cannot predict how many visitors might be attracted to the playground as there is nothing to offer any meaningful comparison; however should the numbers become problematic in any way then the Parks Police would be quickly on hand to control the situation and, as a last resort, the playground could be temporarily closed. The applicants estimate that the proposed area could safely hold up to a maximum of about 500 persons, although this will always vary according to the time of day, time of year, and weather. It is logical to assume that numbers of visitors would be greatest in the initial period after opening and would then gradually tail off and stabilise.

- 3.14 The playground in the position now proposed is not considered to give cause for concern in terms of additional vehicular or pedestrian trips to, through or within the Royal Borough. The additional attraction to be offered by the memorial garden is expected to generate extra visitors primarily via Black Lion Gate and Queensway, rather than from the South through Kensington Gardens. The numbers that visit the existing playground (estimated at up to 350 persons on a fine summer's day) must also be discounted against the proposals. It is concluded that there would not be any significant increase in road usage of the Royal Borough as a result of the proposals, nor would there be any significant

increase in noise or reduction of residential amenity to properties within the Royal Borough. The Transportation Officer raises no objection to the proposal.

- 3.15 It is concluded that the proposals do not conflict with the relevant policies within the "Transportation" chapter of the UDP.

Archaeology

- 3.16 An archaeological evaluation was produced by the Museum of London Archaeological Service in August 1999.
- 3.17 The playground lies within an area incorporated into the formal gardens of Kensington Palace in 1704-05. Changes to the playground area since then are fairly well documented. There is only limited survival of early features, including eighteenth century remains comprising part of a boundary, quarry pits and a path, and a possible prehistoric ditch.
- 3.18 All items that require foundations are placed within the area of existing disturbance caused by the present playground. All new ground disturbance will be carried out under direct supervision of a suitably qualified archaeologist, with provision for excavation, recording, and analysis if any significant archaeological remains are revealed. Any remains would be investigated only in so far as they are affected by the construction works; otherwise they would be left intact and preserved in situ. The archaeological watching brief would be maintained during site clearance and throughout the construction process.
- 3.19 It is concluded that the proposals are unlikely to result in any harm to significant archaeological remains, and that subject to the protective measures set out in the consultants' archaeological report there is no planning objection on this ground.

4.0 CONSULTATION

- 4.1 Letters of consultation on this Circular 18/84 application were sent to Kensington Palace, English Heritage, City of Westminster, Metropolitan Police, together with properties in Kensington Palace Gardens and local Residents' Associations. Further consultation within the City of Westminster has been carried out by that Authority.
- 4.2 To date one objection has been received, this from the Kensington Court Residents' Association. The grounds of objection are as follows:
- 4.2.1 That 40% more space would be occupied by the proposed playground in comparison with that existing

There is no planning objection in principle to increasing a playground by such an amount. This increased area is still only a very small percentage of the area in this North-Western corner of Kensington Gardens, and with the proposed

landscaping and planting schemes it is not considered that the playground will result in any significant visual impact beyond that of the existing playground. It is not considered that the increase in area will cause any significant pedestrian or vehicular traffic problems. It is noted that the size of playground now proposed has already been reduced as a result of consultations carried out by the Royal Parks and the Memorial Committee.

4.2.2 That too many trees are to be felled.

It is considered that the loss of two large, mature trees, one Plane and one Lime, which have already been felled, is regrettable.

4.2.3 Will it end up looking like an amusement park?

It is considered that it will appear to be exactly what it would be namely; a children's playground. The question of whether or not the design or content of the playground is "tasteful" is not a material planning consideration. It is not considered that the visual amenity of this part of Kensington Gardens will be impaired by the proposed playground structures.

4.2.4 What controls are proposed to deal with overcrowding, queues, tramps, vandals, hooligans, first-aid, safety and security?

It is proposed that the playground would keep the existing, seasonal, opening hours of Kensington Gardens, closing at dusk each day, and that there would be a playground supervisor on duty throughout the open period. The upper age limit for entry is twelve years, with the only exceptions being those guarding children. The supervisor would have direct communication with the Parks Police.

4.2.5 The Kensington Court Resident's Association conclude that "In short, this looks over-sized, over-elaborate, too much like a theme park/funfair, understaffed and under controlled. I hope the Council will be able to put some at least of this right through judicious use of planning controls"

As the procedure under Circular 18/84 does not result in the issue of a Planning Permission, no Conditions may be attached. However, it is not considered that the memorial playground as now proposed presents ground for objection under the applicable Policies of the Unitary Development Plan.

4.3 St. Mary Abbot's Vicarage have drawn the Council's attention to the old Parish Boundary stones that are positioned very close to the proposed playground boundaries. These mark the historic boundary between the parishes of Paddington and St. Marylebone, and the boundary has been marked for centuries by this line of stones that run in a straight line from Queen Anne's Orangery to the Serpentine (ending just behind the Peter Pan statue), before turning at right angles towards the Marlborough Gate. Concern is raised that these stones may be damaged during the earth moving and construction works for the playground.

The possibility of damage to these historic features outside the site is not a reason to raise formal planning objection to the playground proposal. Nevertheless, it is clearly important that the Royal Parks and their contractors ensure that damage to these stones is avoided, and their historic interest preserved, and an Informative is recommended to this effect.

- 4.4 In addition to consultation carried out by the Royal Borough, the Royal Parks authority has carried out its own, extensive, consultations on the proposals over the last year, as requested by the Memorial Committee. It is noted that the Knightsbridge Association, the Friends of Hyde Park & Kensington Gardens, and the Garden History Society have each written to the Royal Parks to support the proposal.
- 4.5 English Heritage have responded to the proposals by drawing the Council's attention to (1) the need to ensure that the 1.8m boundary railing should be to an appropriate detail, and (2) that the proposals should address the issue of the Elfin Oak and the damage that has occurred to it in recent years.

Continued preservation of, and public appreciation of, the Elfin Oak and the other items of historic interest in the vicinity is a most important consideration and has been taken into account in the formulation of the Royal Parks' proposals. It is considered that, in planning terms, the Elfin Oak is best left outside the boundary railings, where it can be appreciated by anyone passing rather than solely those entering the playground. It may be that the Oak would be better protected within the railed area, but as this area is restricted to those under 12 years old and their guardians, it is considered on balance that this very restricted appreciation of the Oak is too great a cost to pay. Furthermore, given that the playground supervisor's office has a direct line of sight to the playground entrance, and the Elfin Oak just outside it, the proposals offer an element of increased security for the Elfin Oak. Details of the boundary railings have now been received.

- 4.6 Any further representations will be reported verbally to the Committee.

5.0 RECOMMENDATION

- 5.1 Raise no objection.

M.J. FRENCH
EXECUTIVE DIRECTOR, PLANNING AND CONSERVATION

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List of Background Papers:

The contents of file PP/99/02384 save for exempt or confidential information in accordance with the Local Government (Access to Information) Act 1985.

Report Prepared By: DT
Report Approved By: LAWJ
Date Report Approved: 12/01/2000

PSC00.01/KO.REP

ADDENDUM REPORT BY THE EXECUTIVE DIRECTOR, PLANNING & CONSERVATION

PLANNING SERVICES COMMITTEE 19th January 2000

The Planning Services Committee is asked to note and agree the following amendments to the Committee reports for the CENTRAL area.

Agenda Item 2002 **FLAT 3, 8 MELBURY ROAD**

PP/99/2031

English Heritage.

English Heritage have commented that they have no observations to make on the scheme. A direction is still awaited.

Further condition

4. The tea house the subject of this permission shall not be used or occupied other than in connection with the existing residential accommodation and shall be ancillary thereto, and shall not be used for permanent sleeping accommodation.

Reason: To safeguard the amenities of the area.

Agenda Item 2004 **90 1/2 LEXHAM GARDENS**

PP/99/1900

Withdrawn from agenda

Agenda Item **2006**

PP/99/2384

KENSINGTON GARDENS ROYAL PARK

Further Information on Trees - update on para. 3.9

Three trees have been removed, namely a Plane, a Lime, and a Chestnut. Royal Parks have confirmed that no other trees have been removed, and will not be until after the Committee has considered this application on the 19th. Each of the three trees was removed because they were diseased, and in the short to medium term their disease would have resulted in danger to children playing underneath. The Plane tree had already been crown reduced and the amenity value of all three was limited as they were in decline.

Additional representations

Kensington Palace comment that they have no objection to the development, but would be interested to see the results of any archaeological investigations, and to see the detail of the planting and railings.

Suomen Suurlahetysto comments that the enlarged playground might constitute a security risk, and are concerned about the suitability of the site.

The Friends of Hyde Park and Kensington Gardens comment that they are concerned about the level of supervision of the playground. They are also concerned that adequate funds should be provided for the upkeep of the playground.

Further informative

It is advised that the railings to enclose the playground should be painted dark green.

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CENTRAL

99/2031 Flat 3, 8 Melbury Road,
2002 W14

Additional Conditions

4. No tree roots greater than 50mm diameter shall be severed during the construction of the tea-house or its foundations, without the prior written approval of the Executive Director, Planning and Conservation.

Reason R20

5. The existing shed and lean-to roof, in the South-East corner of the garden, shall be removed before the tea-house hereby approved is first used.

Reason

To help maintain the balance between the number of garden buildings and open areas on this part of the garden.

Amended Condition

4. The tea house the subject of this permission shall not be used or occupied other than in connection with the existing residential accommodation and shall be ancillary thereto, and shall not be used as a separate residential unit or to provide sleeping accommodation, ancillary to the flat.

5. C.48 R.48

6. C.49 R.48

99/2384 Kensington Gardens
2006 Royal Park W8

Additional Informatives

4. Tree, hedge, shrub and grass protection measures should be carried out exactly as specified, in Land Use Consultant's letter dated 17th January 2000. The effectiveness of these measures will depend upon rigorous application and enforcement by the Royal Parks of those working on the site, and it is advised that the inclusion of penalty

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clauses for tree damage would assist in their enforcement. All new services should be installed to comply with BS5837.

- 5. Two semi-mature forest-size trees should be planted within the playground area to replace trees lost by the development .
- 6. The playground should be properly maintained, supervised and kept free of litter at all times.
- 7. The Royal Parks are asked to reconsider the current measures used to protect the Elfin Oak in order than something more aesthetically pleasing can be found.

SOUTH-WEST

99/1947 26 Fernshaw Road,
6001 SW10

Refused

Reason for Refusal

The proposed extension, by virtue of its design, external appearance and projection beyond the rear building line, would be detrimental to the character and appearance of the building and the Sloane Stanley Conservation Area and contrary to the policies of the Unitary Development Plan, in particular CD25, CD41, CD52 & CD53.

99/1699 Shell Garage,
6006 49 Tadema Road,
6006 SW10

Additional Condition

8. C90

Reason

R90

99/1725 160/164 Earl's Court
6014 Road, SW5

Amended Condition

7. The loading and unloading of vehicles servicing the retail unit shall not be carried out between 23.45 hours and 06.30 hours the following day, Monday to Friday nor between 23.45 hours on Saturdays and 08.00 hours the following Sunday, nor between 23.45 hours on Sunday and 08.00