

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION FOR PERMISSION TO DEVELOP LAND AND/OR BUILDINGS IN GREAT BRITAIN

FOR OFFICIAL USE ONLY

Fee £ 95-00

Cheque/Postal Order/Cash 000407

Receipt No. Issued 0209926 6/12/99

Borough Ref. **COMPLETE**

Application No. PP992477

Date Received 8 DEC 1999

PLEASE READ THE GENERAL NOTES BEFORE FILLING IN THE FORM

PART ONE To be completed by or on behalf of all applicants as far as applicable.
FEE (where applicable) £95-00

1. **APPLICANT** (in block capitals) **AGENT** (if any) to whom correspondence should be sent

Name MR L KELLY Name APCAR SMITH PLANNING
 Address do AGENT Address 5B-5E CROWS ROAD
NOVA
NW2 2AD
 Tel. No. _____ Tel. No. 0181 458 7440 Ref. CA/227

2. PARTICULARS OF PROPOSAL FOR WHICH PERMISSION IS SOUGHT

(a) Full address or location of the land to which this application relates 93 Portobello Road London W11

(b) Site area 50 sqm hectares

(c) Give details of proposal indicating the purpose for which land/buildings are to be used and including any change(s) of use.
Removal of condition No. 5 of planning permission ref: PP01296/MNW/35/144 PP/99/1296 to allow the use of the roof as a terrace.

PP992477

(d) State whether applicant owns or controls any adjoining land and if so, give its location. —

(e) State whether the proposal involves:—

State Yes or No

RECEIVED BY PLANNING SERVICES						NO
EX DIR	MD	EXISTING	BUILDING(S)	SE	ENF	NO ACK
- 6 DEC 1999 TPN						
APPEALS	(iii)	ALTERATIONS	B.	FWD. PLN	CON. DES	FEES
						YES

If "Yes" state gross floor area of proposed building(s). m²

If residential development state number of dwelling units proposed and type if known, e.g. houses, bungalows, flats. hectares/m²*

(iii) Change of use NO

(iv) Construction of a new access to a highway } vehicular... NO
 } pedestrian NO

(v) Alteration of an existing access to a highway } vehicular... NO
 } pedestrian NO

If "Yes" state gross area of land or building(s) affected by proposed change of use (if more than one use involved state gross area of each use). hectares/m²*

08 DEC 1999 *Strike out whichever is inapplicable

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3. PARTICULARS OF APPLICATION

State whether this application is for

(i) Outline planning permission

State Yes or No

NO

(ii) Full planning permission

NO

(iii) Renewal of a temporary permission or permission for retention of building or continuance of use without complying with a condition subject to which planning permission has been granted.

YES

If Yes strike out any of the following which are not to be determined at this stage.

- 1 sitting
- 2 design
- 3 landscaping
- 4 external appearance
- 5 means of access

If Yes state the date and number of previous permission and identify the particular condition

Date 20-9-99 Application Number EP/99/01296/1 The condition No. 5 mnu/35/141

4. PARTICULARS OF PRESENT AND PREVIOUS USE OF BUILDINGS OR LAND

State:-

(i) Present use of building(s)/land

RESIDENTIAL ON UPPER FLOORS, RETAIL ON GROUND

(ii) If vacant the last previous use and period of use with relevant dates.

5. LIST ALL DRAWINGS, CERTIFICATES, DOCUMENTS ETC; forming part of this application

Drawg NOS:- ASP/1227/1 - Location Plan - 314/3G - Proposed Plan

6. ADDITIONAL INFORMATION

State Yes or No

(a) Is the application for non-residential development

NO

If Yes complete PART THREE of this form (See PART THREE for exemptions)

(b) Does the application include the winning and working of minerals

NO

If Yes complete PART FOUR of this form

(c) Does the proposed development involve the felling of any trees

NO

If Yes state numbers and indicate precise position on plan

(d) (i) How will surface water be disposed of? (ii) How will foul sewage be dealt with?

As existing

(e) Materials - Give details (unless the application is for outline permission) of the colour and type of materials to be used for:

- (i) Walls N/A
- (ii) Roof N/A
- (iii) Means of enclosure Metal balustrade

I/We hereby apply for (strike out whichever is inapplicable)

- (a) planning permission to carry out the development described in this application and the accompanying plans in accordance therewith.
- (b) planning permission to retain the building(s) or work(s) already constructed or carried out, or a use of land already instituted as described on this application and accompanying plans.

Signed [Signature] on behalf of MR L KELLY Date 29-11-99

AN APPROPRIATE CERTIFICATE MUST ACCOMPANY THIS APPLICATION (See General Notes)

If you are the ONLY owner of ALL the land at the beginning of the period 20 days before the date of the application, complete Certificate A. If otherwise see PART TWO of this form

CERTIFICATE A

Certificate under Section 66 of the Town and Country Planning Act 1990.

I hereby certify that:-

(a) "owner" means a person having a freehold interest or a leasehold interest the unexpired term of which was not less than 7 years.

- 1. No person other than the applicant was an owner (a) of any part of the land to which the application relates at the beginning of the period of 20 days before the date of the accompanying application.
- *2. None of the land to which the application relates constitutes or forms part of an agricultural holding; or
- *3. *I have given the requisite notice to every person other than myself who, 20 days before the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, viz:-

Name and Address of Tenant

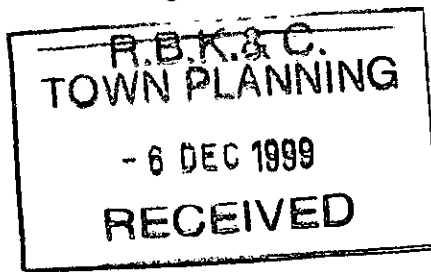
Date of Service of Notice

*strike out whichever is inapplicable

Signed [Signature] on behalf of MR L KELLY Date 29-11-99

APCAR SMITH PLANNING

Chartered Town Planning Consultants



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PP 992477

Executive Director
Planning & Conservation
The Royal Borough of Kensington & Chelsea
The Town Hall
Hornton Street
London
W8 7NX

Our Ref: CA/TC/1227

29th November 1999

Dear Sir

93 Portobello Road, Kensington, London, W11

Please find enclosed an application under Section 73 of the Town & Country Planning Act 1990 for the removal of Condition 5 of planning permission ref: PP/99/01296/MNW/35/141 dated 20th September 1999 in respect of the above premises. This permission related to a ground, first and second floor rear extension, new roof lights, fenestration alterations to front and rear elevations and a new shop front to the shop unit, to include separate access to the residential flat on the upper floors.

The condition in question states:

The roof of the building hereby permitted shall not be used at any time as a terrace without the prior written approval of the Local Planning Authority.

The stated reason for this condition was:

To protect the privacy and amenity of neighbouring property.

The application documentation enclosed herewith complies:

- cheque for £95 as the required planning application fee,
- 4 copies of the completed planning application form including Certificate A,
- 4 copies of Drawing No: ASP/1227/1 – location plan,
- 4 copies of Drawing No: 314/3G – proposed plan, and
- 4 copies of photographs.

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We are aware that the previous planning application originally included a roof terrace and a small roof extension to provide for a staircase housing which it was originally proposed would provide for an improved access to the roof in connection with its use as a terrace. Your Officers were advised, during the consideration of the previous application, that the previous non-self-contained flat had used the roof as a terrace, gaining access through a hatch on to the roof. Indeed the roof had been so used for well in excess of 10 years. We were subsequently consulted by the Applicant with regard to the use of the roof as terrace. We advised him that, were it not for the fact that building works have now commenced in accordance with the recent planning permission, it would have been possible to have obtained a Certificate of Lawfulness in respect of the use of the roof as a terrace. The current proposal for the removal of Condition No. 5 would allow for the continued use of the roof as a terrace to provide outdoor amenity space for the occupants of the improved flat. As you will see it is no longer proposed that there be any roof extension to house a staircase to the roof. Instead, access will be via the openable roof light previously approved.

We have examined your file concerning the previous planning application and note that the Conservation and Design Officer stated that the principle of the terrace and access housing was not welcomed and questioned whether this would be visible, affect the setting of the church (we are aware this is a listed building) and establish any precedents. We are also aware that The Ladbroke Association and a neighbour raised concerns about the access housing in respect of it being "visible" and affecting views of the church, and also privacy concerns.

As can be seen from the plans submitted herewith, and as is referred to above, it is now proposed that the roof be accessed via an opening roof light. There is now no structure proposed and therefore this aspect of previous concern is overcome.

It is evident from comments on the file and from the comments expressed by the Planning Officer handling the previous application to Clarke Associates (the Agent for that application) that the concern regarding privacy related solely to the potential for overlooking into upper floor rooms of premises on the opposite side of Portobello Road.

We have examined the subject premises and their relationship with the premises on the opposite side of the road (the block comprising 94-102 Longlands Court). It is clear that there is only potential for overlooking if a person stands on the very front part of the roof of 93 Portobello Road. For this reason, as you will see from Drawing No: 314/3G, it is proposed that a metal balustrade be erected, set back 2.2m from the front elevation of the building in line with the chimney breast. This will ensure that persons using the terrace will be prevented from coming to the front of the roof and will thus negate any possibility for any overlooking. The enclosed photograph at Plate A was taken from a position 2.2m back from the front elevation and, as can be seen, from this point the windows of the block opposite are hidden by the raised front parapet wall.

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Cont.../3 Executive Dtr., Planning & Conservation, The RB Kensington & Chelsea

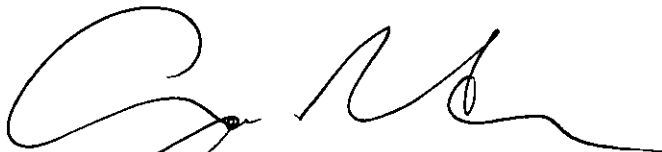
As can be seen from Section AA, the metal balustrade would have a height of 1.1m (to comply with the relevant Building Regulation). With it being set behind the parapet wall which has a height of 0.85m (above the level of the proposed terrace and the existing flat roof), it is clear that the proposed balustrade itself will not be visible either from street level or indeed from the windows of the block opposite.

For the above reasons we consider that the previously expressed concerns regarding the affect on privacy, visual amenities and views of the church, have now been overcome.

With regard to the query raised by the Conservation and Design Officer regarding potential precedent, all planning applications should be considered on their individual merits. However, in any event, there are already a number of precedents established for roof terraces in the vicinity, a few examples of which we show at Plates B, C & D attached. Plate B shows an existing roof terrace within 35m of the application premises at 28 Denbigh Terrace. Indeed the photograph at Plate B was taken standing outside 93 Portobello Road. The existence of the terrace is apparent from the plants growing on the roof top. Plates C and D show roof terraces at 34 Portobello Road and at the junction of Portobello Road with Portobello Lane respectively.

For these reasons we hope that you will agree that condition No. 5 of planning permission ref: PP/99/01296/MNW/35/141 dated 20th September 1999 can be removed, subject to a condition requiring the provision of the metal balustrade in accordance with Drawing No: 314/3G.

Yours faithfully



Carolyn Apcar

Encl.

Cc L Kelly Esq.

S Clarke Esq., Clarke Associates

Mr Bloomfield, 5 Westville Road, London, W12 9BB