



KENSINGTON SOCIETY

AUTUMN NEWSLETTER 2018

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The chairman's report

Our newsletter is intended to inform our members of what has happened since the publication of the annual report, which was sent out mid-April. We always hope that things will calm down in Kensington but we were busier than ever Since the AGM on 21 May we have had numerous new large planning applications, the council’s over-reaction to the EU General Data Protection Regulation (GDPR), our consultation involvement in the Save the Notting Hill police station campaign, the controversial planning application for the massive re-development of the Kensington Forum site, and last month, following an application withdrawn in April, a new application for the supposed “care home” on the Heythrop College site, and our continued support for the Newcombe House redevelopment. Each of these, and more, will be discussed in this newsletter.

False news

However, this newsletter cannot go out without bringing to your attention some false news. It has been stated publicly that the Kensington Society is solely controlled by me. This is both untrue and highly insulting to the very people who have governance of this society: the ten elected and two co-opted provisional trustees. Four are chairmen of residents’ organisations associated to the society, and two are on the executive committees of affiliated residents’ associations. All the trustees are or have been leaders in their professions, with five either as architects or trained as architects, three as international journalists, two being former senior civil servants, one a former FTSE 250 group finance director and one a former FSA approved person. We are all very active both in our own lives as well as within the society. We each have our area of interest and the society benefits greatly from this variety.

No Kensington Society decision is made solely by me. The society is a democracy and every major decision has a trustee quorum before action is taken. We consult and listen to our members. There is no society which can reflect every single individual member. It is false news to assume that this society is run by one person. It is run by the twelve of us and it is run very well.



What will happen with Notting Hill police station? We have managed to temporarily protect it from being sold and hope to secure good community use for it. It's big enough to house several different activities.



Princess Alice Memorial Garden has been cleaned up – but the royal myrtle was kept – and the new planting will soon begin.

The Odeon

An article in September in The Times set the birds’ a-flutter. Kensington Odeon’s big picture is back in the spotlight. The article stated that RBKC wants “crisis talks” with the new owner of the site. We contacted the ward councillor, Sarah Addenbrooke, who put us in touch with the press office. When questioned about the news article the reply was very sensible...”the planning department can confirm that the council has asked for talks with the rumoured new owners when the land changes hands”. There is still the process of due diligence to go through before completion. Again, stand down, we are watching and shall alert you all when there is any news on this loved and sad site.

A better Code of Construction Practice needed

The present Code of Construction Practice was introduced four years ago, after years of pressure for action by residents. It was a welcome improvement, but was primarily aimed at basement projects, which limited its scope. For instance, Construction Traffic Management Plans (CTMP) are, at the moment, only required for basement construction. Crafty contractors are therefore separating large non-basement construction from basement applications, which means there are limited controls over the large sites. Parking suspension has in the past acted as a general clearing agent, approving most applications without question. There were time limits, but contractors have found ways around them. We have worked with the parking suspension management team to tighten up the application process, reduce street skips and hoardings and have urged tougher enforcement against repeat applicants.

However, there have been growing concerns about its effectiveness in securing enforcement in all cases. The planning department has recently initiated a review of the code, which will include many much-needed additional elements, bring together areas which previously were not coordinated and will widen it to cover all construction sites, not just basement projects. We look forward to seeing the proposed consultation on changes to the code and its enforcement.

Princess Alice Memorial Garden

I love ending on a positive note. Many of you may have passed by the garden under the council chamber building and seen the devastation as a result of aggressive plant removal. We certainly did. That garden is very dear to the Kensington Society. The original area was the surround to a fountain designed in 1976 by Sir Basil Spence. In 1982 we sponsored the creation of the garden, dedicated by our new

patron, HRH The Duke of Gloucester, K.G., G.C.V.O. to memory of our first patron, HRH Princess Alice, Countess of Athlone, the grand-daughter of Queen Victoria.

The garden was lovely, but unfortunately the fountain leaked and, most importantly, it leaked on to the councillors’ cars parked below. So out went the fountain. The society stepped in again supported the replanting in 2000.

We have stepped up again when we saw a group of “gardeners” hacking limbs off shrubs and removing most of the plants in a tidy up project. The garden had been neglected for many years and we agree that it needed attention but it was a bit heavy handed. We discovered that the contractor had develop a planting plan and the area was to be replanted. The plant plan had over 70 plants and, if being kind, it was a bit too much.

We asked, I would say that we more than “asked”, to be involved and the offer was graciously accepted.

Having met Kim Wilkie through the Natural History Museum east lawn project, we approached Kim Wilkie for help. Shelley Nicholson and I met with Kim and reviewed the multiple problems of shadowing, limited light in areas, the poor water access and poor soil. Kim was not phased and came up with what with a plan of repeat planning on each of the three sides which is symmetrical and responds to the restrictions. It is simple and clear and will last for many years. He has donated his time and waived his fee.

Since then Monica Castelino, the RBKC parks team, has instructed the ground staff to remove 90 cm of soil, establish a water drip system and remove the ground elder. Katharina Labovitch, who is a Kensington Society member and an experienced garden designer, has worked with Kim’s plant plan, developed the specification and plant size, sourced the best plants from multiple nurseries. RBKC had a budget and has paid for all the ground works but our plan did exceed their plant budget. The Kensington Society has stepped in again, this time to “top up” the plant cost. Planting is to begin at the end of this month.

Through this long period and several re-plantings one major important plant has survived... a myrtle. Our myrtle is from the same myrtle plant given to Queen Victoria in a poesy by Prince Albert’s grandmother in 1845. By tradition, the myrtle has been used in royal weddings since the marriage of Queen Victoria’s eldest daughter, Princess Victoria, and most recently in the bouquet of the Duchess of Sussex, Meghan Markle.

Newcombe House decided after seven years

On Tuesday 18 September, after seven years of discussions, revisions, two refused planning applications and one planning inspector decision, London’s mayor, Sadiq Khan, decided that the Newcombe House project, at the corner of Notting Hill Gate and Kensington Church Street, should be allowed to proceed. Unless someone can successfully convince a court that there are grounds for a judicial review (which requires that the mayor has acted outside his powers, hasn’t followed the correct procedure, or has taken a totally unreasonable decision), his decision cannot be overruled.

Khan took his decision after a two hour public hearing in City Hall, preceded by a public consultation in July and August.

The project allowed is not exactly like the application refused by the RBKC planning committee in January 2018, but is a revised version submitted in July in response to Khan’s decision to “call in” the application in March. In his 26 March letter, where Khan explained why he had decided to “call in” (i.e. take over the decision from RBKC) the latest application, he made it clear that although he was already largely positive to the plans, he hoped to be able to squeeze further concessions from the developer, which he felt that RBKC had neglected to do.

Revised plan provides more affordable

So when the developer began discussions with the GLA planning team, it was agreed that the height on some of the buildings could be increased in order to provide more affordable housing on site. And in July, the developer presented the revised plan, which will provide 23 affordable flats on-site instead of 9, a further 10 affordable two-bedroom flats off-site, more office space and improvements for the large GP surgery, such as giving it two lifts instead of just one.

In order to achieve this, one of the two buildings along Kensington Church Street (KCS1) will have five floors instead of four and the doctors’ surgery building (WPB3) will have

seven floors instead of five. While the increased height of KCS1 will hardly be noticeable, as the added floor will replace a planned roof garden, the two additional floors on WPB3 will be visible from certain angles. WPB3 was originally planned to have seven floors, but two were removed before the first application in 2015, so the revised plan reinstates those two floors.

Three floors for the surgery

The surgery will take the three top floors of WPB3, while first and second floor will be offices. The surgery will also be serviced with two lifts instead of only one, and the total surgery space will be slightly larger than in the 2017 plan.

The revised plans mean that the housing mix will change drastically: from 37 full market price leasehold flats and 9 affordable rented, to 32 full priced leasehold flats and 23 affordable rented.

The 23 affordable flats will consist of 15 socially rented and eight let at London Living Rent (LLR) levels. The 15 socially rented flats (12 one-bed and 3 two-bed) will all be in KCS2 (the building at the corner of Kensington Church Street and Kensington Place), while four LLR flats (2 one-bed and 2 three-bed) will cover the first floor of KCS1. WPB1 (the three storey building along the tube station) will house the remaining four LLR flats (3-bed duplexes) above the ground floor shops. Eleven of the full priced leasehold flats (5 one-



The seven storey WPB3 (left tower), will have a GP surgery on the three top floors. The three-storey WPB1 (left) will have four London Living Rent duplex flats above the ground floor shops. Picture courtesy of Brockton Capital and U+I.



This is what the westward view of Notting Hill Gate will look like, with the refurbished Astley House (the Barclays building) in the foreground on the southern side and the new Newcombe House behind it. Picture courtesy of Brockton Capital and U+I.

bed and 6 two-bed) will be situated on floors 2-5 of KCS1, while the corner building (CB, i.e. the tower) will, as before, have 21 larger full market price leasehold flats (18 three-bed flats and 3 four-bed duplexes) on floors 4-17.

The provision of office and retail space remains largely unchanged from the application, i.e. almost 5,000m² office space and 2,600m² retail space. Also, the farmer’s market will remain in the public square as planned, as will the step-free access to one of the Circle Line/District Line platforms.

When the mayor delivered his decision, he said:

“This is a well designed scheme that delivers significant public benefits, including a new public square and a GP surgery. I’m clear that we must deliver good growth which ensures that existing communities are respected and that careful consideration is given to impacts on their lives and livelihoods. I have therefore carefully considered all the evidence available to me, including the visual impact of the development on the surrounding townscape and historic environment. I’ve also listened carefully to the concerns of

residents. In my view, the proposed design is a significant improvement on the existing, and the scheme delivers a number of public benefits. I consider that the significant public benefits offered by the applicant outweigh any harm to heritage setting and townscape. This is a scheme that will deliver many good things for Londoners on an accessible and well-connected brown field site where we must be directing our growth. For these reasons, I agree with my planning officers’ recommendation and grant planning permission for this development.”

And in a statement after the hearing, he added: “Since taking office, I’ve been clear I will use all the levers at my disposal to increase the supply of council, social rented, and other genuinely affordable homes that Londoners need across the capital. London’s housing crisis won’t be solved overnight – but I hope this will send a clear message that I expect developments to include more genuinely affordable housing and other benefits for local people.”

Thomas Blomberg



On Tuesday 18 September 2018, the London mayor, Sadiq Khan, held a two hour public hearing in City Hall’s auditorium “The Chamber”, before deciding that the highly contested Newcombe House project could go ahead.

The battle over Kensington Forum Hotel

On 27 September, the council's planning committee refused the controversial application to demolish the Kensington Forum Hotel/Holiday Inn on Cromwell Road and to redevelop the site with three interconnected buildings, two of which were to be tall towers. You may not have known about this application, but it is extremely important – and the refusal doesn't mean it can't still be built. The first hurdle is the London mayor, but if he agrees with the council, the developer can appeal to the Planning Inspectorate. This is far from over...

Yes, the current Holiday Inn is a monster, but the proposed complex is far worse. If the planning committee's refusal is overturned at a later stage, this is what we'll get:

- the total floorspace will increase by over 60%, creating the highest density of development in the borough;
- the tallest of the two buildings will be 30 storeys/102m tall, 10 m taller than the existing, which will make it the tallest in the entire borough;
- the second tower will be 22 storeys/77m tall, higher than the recently approved Newcombe House tower;
- the tallest tower, next to Cromwell Road, will contain 749 luxury hotel rooms, a 1,500-person conference and events facility, a spa/leisure centre, and bars, restaurants and dining areas;
- the second tower will contain 340 serviced flats for tourists and visiting business people;
- the third building – seven storeys high – at the corner of Ashburn Place and Courtfield Road, will have 46 flats. 26 will be full market priced leaseholds, 9 intermediate priced leaseholds, and 11 social-rented affordable flats.

The existing building has 906 hotel rooms for the budget market and is acknowledged by the council as an eyesore and by the developer as outdated and unable to be refurbished.

The planners saw the main public benefits as 1) the design of the building (a view not shared by residents); 2) the proposed reinstatement of the garden square (which the developer was required to reinstate) and 3) improvements of the pavement in front of Gloucester Road station. The housing component on the other hand was a modest but welcome element. No other public benefits were proposed.

One would have thought that such an unacceptable proposal would never have been recommended for approval by the planning department.

The process

But how did we ever descend into this mess? Following a dozen private pre-application discussions, the planners endorsed the increase in scale, mass and height and produced a report recommending approval.

In conclusion, we have a litany of issues about the elements of the planning process, which we have called into question. Our members are used to us complaining about pre-application advice and the cosiness of the developers with the planning department. In this case the problems were much greater.

The “public consultation” by the developer was in a parallel universe, organised by the developer through their PR firms. There were several meetings where the initial parameters of the development were discussed. However, it seems all talks were about the garden square, with little or no information



At 102 meters, the new hotel tower would become the highest building in the borough, and the tower behind it would be higher than then planned Newcombe House in Notting Hill Gate. Picture from the application.

available on the actual proposals for the building. PR firm after PR firm were replaced with finally Cratus, led by the former leader of the council, Sir Merrick Cockell, as the final PR consultant. The architectural firm was SimpsonHaugh, known for their large, big city, commercial buildings.

Communication stopped

We, the society, heard rumours about a tall tower, and then, much later, we heard it was to be two towers. During this time the parallel pre-application process was proceeding. We were granted one single meeting with two officers on 14 May 2018, at which our fears were confirmed: the proposed development would be taller and significantly larger than the existing building, it would have two main buildings, the tallest tower a luxury hotel and a second tower for serviced flats, managed by the hotel. However, we were shown no drawings or images.

The officers explained that the size of the development had been evaluated and was justifiable based upon its commercial viability. The existing building is very profitable as an economy hotel. Therefore the officers accepted the reasoning that it needed a more than 50% increase of size to



The view from Courtfield Road, looking east. The difference in height, position and massing between the current building (left) and the planned complex (right) is striking. Pictures from the application.

justify the re-development. We questioned the valuation of a clapped-out hotel which the developers have openly stated cannot be modernised and is facing structural problems, as reasons/justification for an excessive valuation were given. We told the officers that we would challenge this assumption.

The application was validated on the 22 June 2018 - just in time for the summer holidays. The local societies and residents groups quickly organised a campaign in opposition. Consultants were hired, meetings were held and a force was formed.

Many documents not available on the website

We immediately noted that there were documents missing from the council's online planning file, documents that are always part of major applications. We asked for access to the pre-application advice minutes and statements, the report(s) from the Architectural Appraisal Panel (AAP), the responses from the design and conservation officer, the tree officer, the highways department, the required flood risk assessment, the daylight and sunlight assessment, the plan for the existing building and the viability reports for the housing and the commercial elements. We were specifically looking for the viability justification for a 60% increase in density.

On 12 September the council sent us a copy of an “advice” letter sent to the developer's consultant, GVA, on 23 March 2018. This was supposed to answer our question about commercial viability. It did not, but instead endorsed the bulk, mass and height of the proposed development.

It is best to quote directly: “*This letter is to provide feedback on the scale and massing of the PPA (pre-application planning advice) discussions to date and provide comfort for your client to move forward with the detailed design stage and other elements of the scheme.*”

That letter was sent 13 weeks before the application was submitted. No public consultation had occurred, the local councillors had not been consulted and it seemed the game was over.

Minimal information was supplied. A flood assessment was produced and daylight and sunlight report was sent on 8 August. The existing plans were deemed unnecessary as the existing building was to be demolished. Comparisons of the existing with proposed development was stymied. We were promised the pre-application advice, however, though there were 12 meetings, we were told there were no minutes taken and no statements of direction as is usual with pre-app advice.

All other information requests were ignored. Finally, in frustration, in late August we wrote directly to the chief executive, Dr Barry Quirk. The APP reports were finally issued on the site on 4 September. However, for all other missing documents, they remain absent to this day.

Ashburn Gardens and Courtfield Road Associations did a Freedom of Information request for the entire file, including the information request by the Kensington Society, on 17 August. Fol requests must be respond to within 20 working days, which means that the information should have been made available no later than 17 September. Though both ACGRA and the Kensington Society pressed for the information, it didn't arrive until 2:14 pm on 27 September, a few hours before the planning committee's meeting..

On the night

The key issue for the local objectors how best to convey the strong case against the proposals to the planning committee. Over 890 letters opposing the application were received.

The local groups coordinated an extremely complicated but well-presented and coherent presentation in opposition to the scheme. The developer's representative was given equal time. Through excellent chairmanship from both sides were allowed to speak if questioned in the Q&A part of the meeting. The packed Council Chamber meeting lasted six hours and, in the end, with a well-run and coordinated meeting chaired by Councillor Marshall, the final vote was unanimously to refuse. Everybody was so tired that their elation was no more than a polite applause. It was a huge relief.

But this is not the end

The mayor of London could still call in the application in order to make his own decision, which can't be appealed. If he doesn't, the council's decision stands and the applicant can then appeal to the Planning Inspectorate.

Our concern reflects results of appeals against large developments in the recent past. Both Dukes Lodge and the Odeon were glowingly recommended by the officers but refused by councillors. In each case the planning inspector handling the appeal cited the officer's report as partial justification for allowing the appeal. Our concerns over the handling of the entire process cannot be understated.

All in all, for the Kensington Forum site this is the beginning, not the end, of the battle...

Amanda Frame

Heythrop College: How to present a luxury housing scheme as a much needed nursing home

After 160 years of continuous religious and educational use of the large site behind Kensington Square, the latest occupier, Heythrop College, is moving out after some 25 years. A property developer has bought the site, and plans to turn it into an enormous luxury flat development. But by attaching a small healthcare facility to it, the developer claims it should be entitled to a Class C2 designation like a care home, and thus fulfill the council's requirement that the site should be retained for social and community uses, such as education or care homes.

In anticipation of Heythrop College moving out, the council produced an SPD (supplementary planning document) for Heythrop College in 2015, which, after consultation with local residents and businesses, was adopted in May 2016. That SPD states that *"any proposed change of use would need to satisfy Policy CK1 (Chapter 30, CLP), which protects social and community uses"*, adding that *"a modest amount of enabling residential development may be acceptable on the site where this provides a greater benefit to social and community provision in the borough"* and it specifically mentions affordable housing as an example of such acceptable development.

This strong policy for protecting and retaining low value, social and community uses against the pressures of high value uses, especially luxury residential developments, was added to the local plan (CLP) in 2010 after a succession of care and educational sites – Princess Louise Hospital, Vicarage Gate care home and Queen Elizabeth College – had been lost to high-value housing schemes. Left to the market, all remaining such sites would be lost without such protection.

Guernsey registered

In 2017, the site was sold to Leopard UK Kensington Propco Ltd, a company set up specifically for this purchase, which is ultimately part of a Guernsey registered property investment group, while Westbourne Capital Partners (WCP) is the buyer according to the trade press.

The same set-up was used for the purchase and

development of the forerunner to this project, the so-called Auriens Chelsea Development on the site of a former RBKC care home at 2 Dovehouse Street in Chelsea, a development described on the WPC website as *"55 luxury apartments which will combine the feel of a luxury private members' club with best-in-class healthcare services for the golden generation of ultra-high net worth typically aged 65+."* That development, granted by RBKC in April 2017, is formally owned by a company called Auriens Ltd, but is ultimately owned by the same Guernsey entity, with WCP described as the buyer by the trade press.

First application ignored pre-app concerns

The buyer first applied for pre-application advice in October 2017. In their final advice letter, of 22 December 2017, the planning officers concluded that an application for what was proposed would not be acceptable for a variety of reasons: the scale, massing, layout of the buildings, reduction of the central open space, loss of trees, and the impact from construction traffic. They also added that *"it is unclear whether the proposed land use can genuinely be considered as Class C2 Extra Care use"*.

Despite that advice, the developer submitted a planning application in January 2018 to convert the site into a 150-unit extra care housing scheme "for the over 55s": a large, super-luxury retirement housing scheme with a small element of personal care. The developer claimed that the care offered should enable the the whole development to be designated use class C2 residential institutional, as a care home.



An artist's vision of the Heythrop site when the young students have been replaced by "ultra-high net worth members of the golden generation", who live in a gated community and play croquet together. Picture from the application.

The application stated that sale prices for the flats were estimated to be £3 million for a one-bedroom flat and up to £9 million for a two-bedroom unit. The scheme, which would enlarge the site significantly by building a deck over the underground tracks, would involve the demolition of most of the college buildings, including a 109 bedroom hall of residence, to be replaced by blocks of flats with a large range of facilities, just like the other luxury housing schemes in Kensington. In short, it was the very opposite to the requirement in the SPD and the council's policy to save low land value "social and community" uses from the pressures of the prime residential housing market.

In addition to hefty service charges, any residents of the flats would have to sign up for the facility's "minimum care package", but it's doubtful that anyone £9 million for a flat would be evicted for not making use of that package as long as they pay for it.

Construction traffic a major issue

A major issue of contention with the site, is its remoteness from the main roads and the very limited access. The enormous construction traffic over the five years the development would take, would have to navigate a 650m (0.4 mile) stretch of narrow residential streets between Kensington Road and South End (the location of the stripey house).

The developers withdrew their first application in late April – just before the local elections – rather than face a refusal, and within a few days they were discussing changes to the scheme with the planning officers to make it more acceptable.

These changes were mainly cosmetic: smaller basements, reduced height of some buildings, and removal of some facilities, such as a small GP surgery. This has resulted in a 142-unit extra care housing scheme, the conversion of three large buildings on Kensington Square from education to private town houses and the addition of five affordable flats, as the three large houses require an affordable housing contribution. A new application with these changes arrived at the planning department on 5 September.

In essence, nothing has changed. But, contrary to the earlier pre-application advice, the planning officers now appear to support the scheme, judging from the pre-application advice for the new application.

The latest pre-application advice still has "outstanding issues" about the construction of the deck and the viability of the scheme, but the planning officers no longer express any concern about the change of use and the loss of all the existing social and community uses. Why have they changed their minds? Why are the planning officers now prepared to agree this scale of losses of one of the few major sites left, just for yet another big luxury housing scheme? Gone are the concerns over whether *"the proposed land use can genuinely be considered as Class C2 Extra Care use"*.

It is totally contrary to the local plan policy, that low-value social and community uses should be retained, to agree that this luxury housing scheme can take the same mantle as a care home. The officers have lost sight of the purpose of the council's policy.

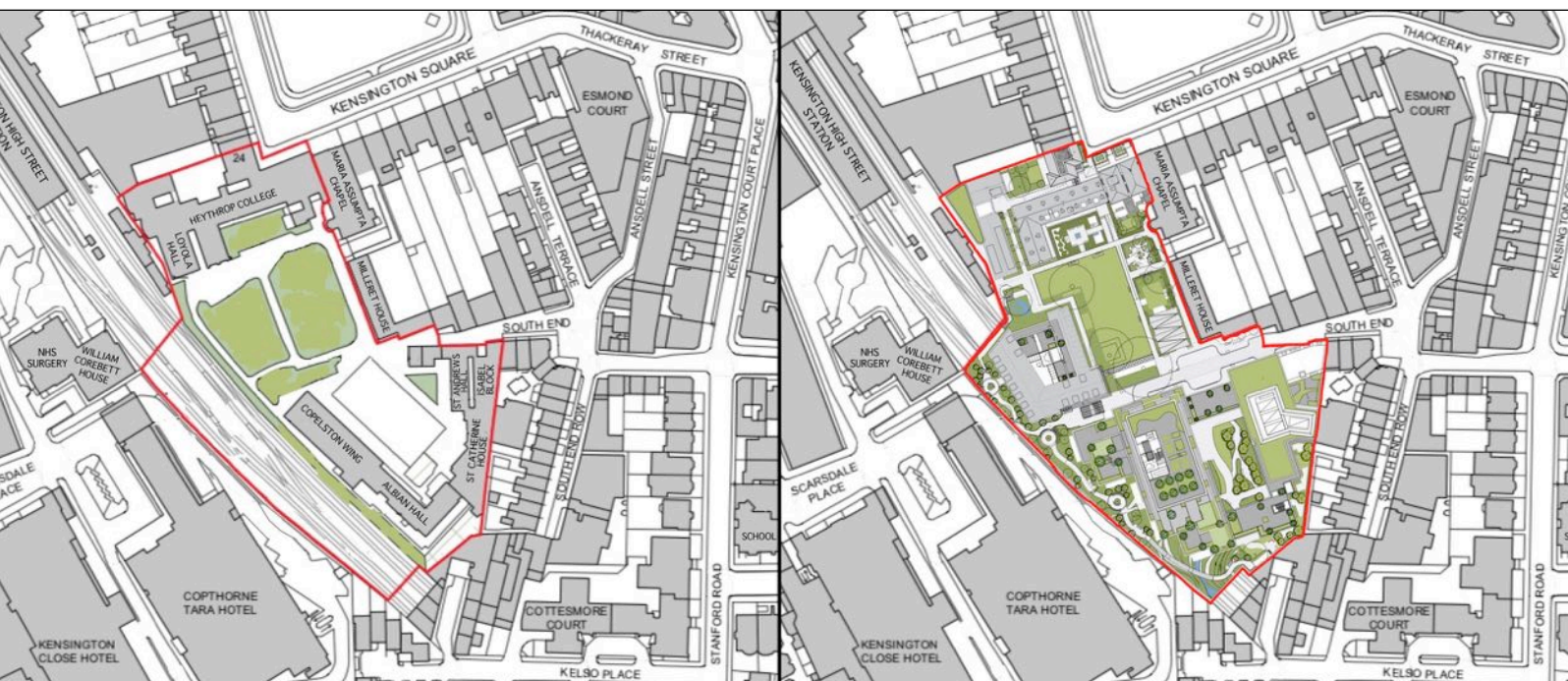
Our strong objections

The Kensington Society strongly objects to the change of use from education plus a hall of residence to yet another luxury housing scheme, the expansion of the site by building over the railway and the resulting scale of development (three times as much as there is now), and the impact the five year long construction programme would have on this quiet residential area and pressure it would put on these narrow streets. We still question how the structural elements for the deck are to be moved to the site.

There are almost no public benefits from this scheme – apart from a highly-speculative, unconnected offer of £4 million toward step-free access to High Street Kensington station. This, even if it was considered to be an acceptable donation, would not compensate for the loss of education and community uses.

The application is due to be decided by the council's planning committee on 27 November. Come and support us.

Michael Bach



The plan is to retain but totally refurbish the Grade II listed college building and the three townhouses next to it by Kensington Square, to expand over the underground tracks and to replace all other buildings and open spaces. Plans compiled from the application.

The onslaught of phone boxes nobody needs

Kensington and Chelsea, just like most other boroughs in London, has seen a flood of phone box installation notifications during the last two years. The reason for this upsurge is a legal loophole: while regular advertising screens (from large hoardings to panels on bus stops) require planning permission and can be refused if they impact on amenity or road safety, an outdated law from 1984 makes the installation of telephone boxes permitted development which only requires a notification to the council if it's in a conservation area. So, in a time when almost everyone carries a mobile phone and has no use for a payphone, this law is used to flood Kensington with more advertising screens and wi-fi networks.

The whole thing actually began in 2007, when BT and their then advertising partner JCDecaux launched the ST6 panel: a large advertising screen on one side and a payphone on the other: wider and higher than any traditional phone boxes.

The BT competitors in the street payphone market were initially slow to react to the ST6, but in 2015 advertising giant Clear Channel UK bought New World Payphones and announced that they would replace all the old NWP phone boxes with a hybrid of traditional phone box and advertisement panel, built by Lord Sugar's Amscreen.

And in 2017, Euro Payphone in Belfast (since July 2018 owned by outdoor advertising company Wildstone Capital) announced that they were coming with new phone boxes, as did a new entrant in the market, Maximus Networks, owned by billboard company Maximus.

Meanwhile, the joint venture between BT and JCDecaux ended and in 2016 it was announced that BT together with



The new NWP phone boxes are basically a BT ST6 panel which has a side wall and roof styled from the old red phone boxes. It has a huge advertising screen on the back. Picture from NWP.

new advertising partner Primesight would launch the InLink wi-fi tower, first introduced in New York.

In 2017 the applications began to roll in to RBKC's planning department from all four operators – and to most other London councils as well.

181 notifications in one year

So far (until October 2018), the council has received 181 PAs (Prior Approval notifications) for new phone box installations: 15 from Euro Payphone, 25 from New World Payphones (NWP), 92 from Maximus Network, and 49 from BT (InLinks). In total 181 new phone boxes.

NWP withdraw 13 of the 25 notifications and had the remaining 12 “withheld” by the council (as these are permitted developments, the council can’t refuse them, but can withhold the “prior approval”). Ten of the withheld were appealed to the Planning Inspectorate and a few weeks ago the planning inspector dismissed one of them and allowed five, with five still undecided.

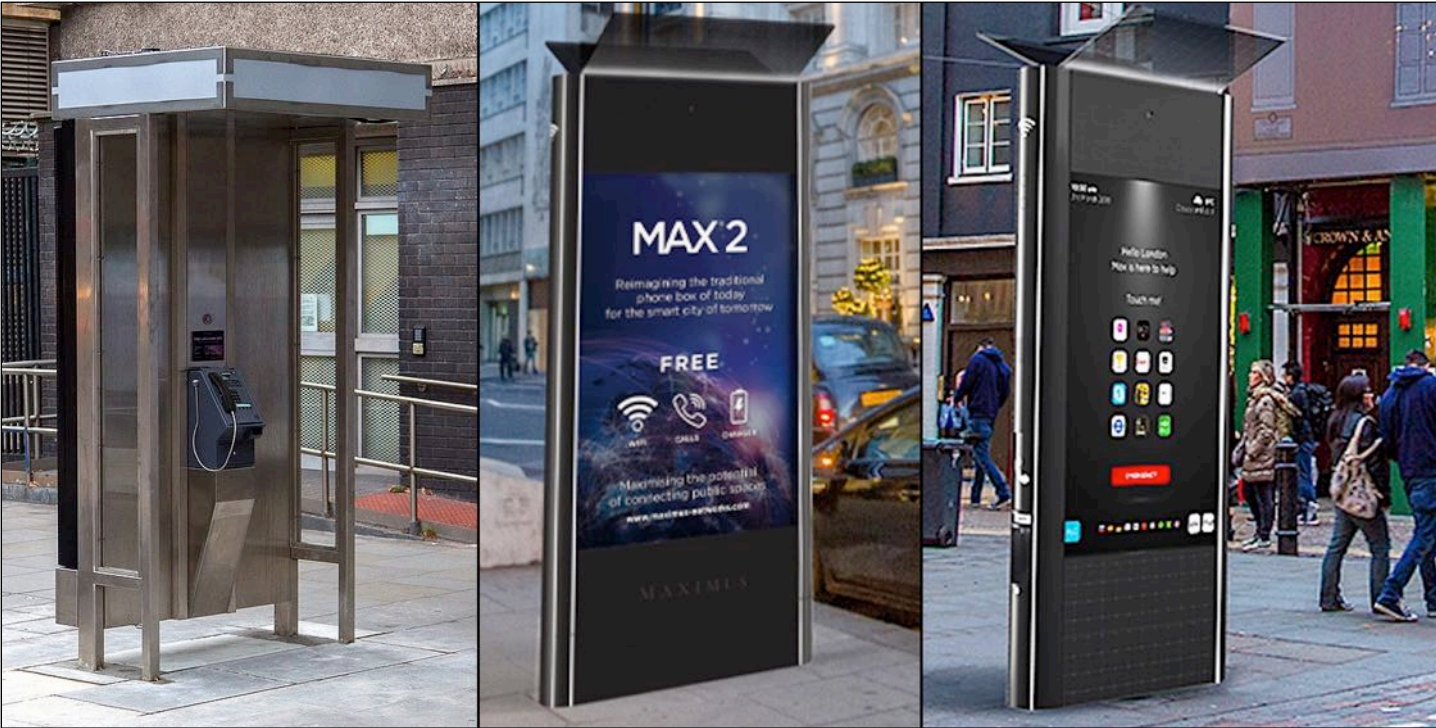
Euro Payphone have withdrawn 2, have had 13 withheld by the council, and has appealed 5, whereof none has yet been decided by the Inspectorate.

The most aggressive of the four, Maximus Network, has so far had 82 of its applications withheld by the council, and has appealed 80 of these. The company has since withdrawn 39 of the appeals and the Inspectorate has still to decide 41.

BT has so far fared much better. Of the 13 PAs decided by



The InLink tower has its phone (no handset, just a microphone and a speaker) on the side, so the caller will add to the tower's width, which can be a problem on narrow pavements.



Maximus' 92 planned installations in RBKC all refer to the Max 1 model (left), but the company has recently presented two other models, Max 2 and Max 3, which are basically their variant of the InLink, although they seem much taller. Pictures from Maximus.

RBKC so far, 12 have been allowed, and it looks as if most of the 36 not yet decided will be allowed as well.

So why is the council less negative to BT's InLink towers than to the other three? Well, for two reasons:

BT removes two old boxes for each new one

1) For every installed InLink, BT removes on average two old phone boxes, so these installations actually removes some street clutter. The 49 applications so far means that some 100 ST6s and KX100 Plus boxes will be removed. BT's competitors will at best replace an old phone box with one of their new ones – and NWP promises to plant a tree as well.

2) The InLink towers may be high (2.9 metres, which is actually only 15cm higher than the old ST6), but their actual footprint is very small, due to the narrow width (0.89m) and very small depth (0.28m), and the two advertising screens (one on each side) are 0.69m wide and 1.21m high, which is much smaller than the advertising screens on the monstrous BT ST6 panels (one the payphone types being removed) and the new phone boxes that the other three want to install.

The money spinner on the InLink actually isn't the two advertisement screens, but the free high-speed wi-fi network that a series of InLink towers create along a shopping street. Once a user is logged on to that network, he or she becomes one of several thousand small dots moving in and out of shops. Retail strategists are willing to pay quite a lot for such information – so much that the InLink towers can offer free phone calls within the UK, free mobile phone charging and wayfinding services, in addition to the free wi-fi. And as the main purpose is to create the wi-fi network, which reaches several hundred metres from each InLink, there is no need to have these towers close to each other, which is why BT is so willing to remove two old boxes for every InLink tower.

One may suspect that our security services also are interested in the tracking the wi-fi network will offer...

Why all the withdrawals?

But why did NWP voluntarily withdraw more than half of 25 PAs before the council decided, why did Maximus withdraw

39 of its appeals, and why has Euro Payphone only appealed 5 of the 15 rejected notifications? Well, possibly because they are all planning to introduce new contraptions which are more like the InLink. Maximus shows two InLink-like panels on its website, as successors to the rather ugly Max 1 phone box in the Kensington notifications, while Euro Phone has begun installing their new Pulse Smart Hub units in Belfast instead of the short bus shelter type of a phone box displayed in their RBKC PAs, so it would be surprising if NWP isn't working on something new as well.

This onslaught of phone box notifications is taxing the resources of planning departments across the capital. In January 2018, the Local Government Association (LGA), which represents 370 councils in England and Wales, urged the government to scrap the permitted development right that makes it so easy for these operators to flood the market and so difficult for councils to control. And in July, Transport for London asked for the same thing, as TfL feels that all this street clutter is harmful to its new walking action plan.

Thomas Blomberg



Euro Payphones' notifications to RBKC were for the rather dated half "bus shelter" (left), but now the company promotes its Pulse Smart Hub (right). Pictures Albert Bridge and Euro Payphone.

GDPR – the acronym that killed the comments

Several months have passed since we all had our email boxes filled with messages about the implementation of the EU General Data Protection Regulation (GDPR). From a wide range of companies, public and private organisations we were sent new privacy notices, telling us how our personal data would be stored and ‘processed’. These new regulations form part of the data protection regime in the UK, together with the new Data Protection Act 2018, and have been in force since 25 May 2018.

Councils have long been required to maintain (and make available to the public) a statutory planning register, and those commenting on planning applications are taking part in a statutory consultation process. These comments are often considered a ‘material consideration’ when an application is decided.

Since planning applications began to be published online, the Royal Borough of Kensington and Chelsea has been one of around 20 London boroughs which publish all public comments on its website. Certain personal data has been removed, such as email addresses and phone numbers, but the names and street addresses of the commentators have always been showed. The commentators have always been notified on the website that their name and address will be made public if they submit a comment, so when they do comment they have accepted this.

Names and addresses removed

However, with the introduction of GDPR, the borough suddenly changed its policy. At first, it stopped publishing all comments, but after massive protests they began to be published again. However, in addition to the removal of email addresses and phone numbers the borough now also removes names and street addresses of the commentators. So the only thing remaning is the actual comment, but nobody can see from where and whom it is. In addition, RBKC decided that all these now anonymous comments should be removed from the website as soon as the application has been decided, although all other documents remain. These two new policies were also applied to comments from organisations, such as the Kensington Society. As a consequence, our members, the councillors and the applicant couldn't even see that we had commented!

PLANNING APPLICATION PUBLIC COMMENT	
Application number:	PP/18/05313
Site Address:	Heythrop College, 23-24 Kensington Square, LONDON, W8 5HH
Proposal:	Reinstatement of three townhouses (Class C3), (part of 23 and 24 Kensington Square); refurbishment of college building (part of 23 Kensington Square) and use as an extra care facility (Class C2). Demolition of all other buildings on site. Erection of deck over adjacent London Underground line and construction of 5 buildings (ranging between 1 and 8 storeys in height) for use as an extra care facility including units, communal facilities and services areas, community hall and on-site affordable housing and associated access parking, servicing and landscaping. (MAJOR DEVELOPMENT)
Comment received:	Do we really want yet another block of flats bought by off-shore companies and standing empty? "Care home" costing millions? The knock-on effects are huge. Yours faithfully,
Date of Comment:	14/10/2018
Comment type:	Objection

Due to a "cautious approach" to GDPR, the council removes all names and addresses from comments on planning applications, thus making them totally anonymous – and rather meaningless.

The council argues that the removal of names and addresses, as well as the removal of the comments once the application has been decided, is a requirement of the GDPR, but the Kensington Society believes that this interpretation is totally wrong and reveals a misunderstanding of the whole purpose of the GDPR. These regulations were mainly introduced to protect individuals against the extensive buying and selling of individuals' names and addresses for for the purpose of commercial mass mailings and other abuse. The purpose was never to intervene in the democratic process or make work more difficult for public authorities. Article 86 and Recital 154 of the GDPR clearly allow for lawful processing and publication of some personal data by a public authority carrying out the statutory task of determining planning applications.

We therefore argue that the council could and should continue to post the names and addresses under the comments, and that the comments should remain on the website together with the application after it has been decided. Of London's 35 planning authorities (including the two mayoral development corporations) only Westminster and RBKC have changed their practice as result of GDPR.

"A cautious approach"

The council has told us that it wishes to take a cautious approach on the issue of removing names and addresses. We have therefore asked that it obtains a legal opinion on the issue.

These totally anonymous comments are a concern for many residents associations in the borough. Both the public and the applicants need to be able to see from whom and where comments are made. Is the person commenting an immediate neighbour or someone living many miles from the site who just want to voice an opinion but isn't affected of the proposed work?

After several meetings with relevant council officers, they agreed to stop removing the comments after applications had been decided, and they have even promised to look into the possibility of reinstating already removed comments, as part of the council's role in maintaining 'archive material' of public interest. It is often important for the public to have access to comments on past applications, as developers and property owners often come back with a new application after a refusal.

We accept that local authorities have no statutory duty to publish comments online (and 10 London boroughs choose do not do so), but this is a discretionary activity that has been part of RBKC's 'public task' for several years now, and it is important for openness and transparency.

The Kensington Society will continue to press the council to provide planning applications, both past and present, with as much information as possible.

Henry Peterson



The Academy pub is now closed and boarded up, but the fight to retain it as a much loved local pub isn't over. It is now back on the market again, and there may be a chance to activate the AVC again. Picture copyright Google Street View.

The Academy pub – a situation report

In response to an application in September 2014, to change The Academy pub on Princedale Road in Notting Hill into an art gallery (although later withdrawn), the Norland Conservation Society was successful in getting the popular gastro pub registered as an Asset of Community Value (ACV), thereby giving it a five year protection and the community the right to bid to buy the pub should it be put on the market. The ACV was challenged by the owners, Wellington Pub Co but the designation in its entirety was upheld by the courts.

In July 2015 a further application was made to change the pub to a restaurant and café. There was overwhelming opposition from locals and the application was refused.

Sadly, the pub was closed in August 2016 and remains so.

Following the owner's notification of intention to sell in October 2016, the Kensington Society expressed an "interest to bid" and came up with a proposal to facilitate a purchase by a local charity. The proposal included five flats with parking, delivery and storage facilities for the pub and critically no reduction in the pub's size. The charity's purchase was dependant on the development.

All looked perfect for a new owner committed to the long-term future of our local. But it was not to be. Pre-Grenfell, when we had a very different council from now, the society's plans were opposed already at the pre-application stage by the planning department, despite being presented with a proposal where there was no need for council funding. The door was closed and shortly thereafter the moratorium period of six months, in which the community could bid, expired.

In April 2017, the Wellington Pub Co. entered into a binding agreement to sell the pub to Academy Holland Park Ltd, a company whose business is buying and selling real estate.

During the summer of 2017, the Kensington Society, Norland Conservation Society, the Clarendon Cross Residents' Association and local representatives met with Academy Holland Park Ltd and its representatives and fought hard and long to ensure that any future development would not jeopardise the viability of the pub.

One application was withdrawn, one refused and finally, in June 2018, approval was granted, subject to legal agreement, for reconfiguration of the pub and the development of a single house without parking.

Unfortunately, the fight is not over, because in recent weeks Academy Holland Park Ltd, who had assured us that it was the intention to develop the site and lease the pub to a named publican from Wiltshire, has put the pub and adjacent land on the market.

There is a twist in all this in that there may be a possibility of a new moratorium period.

We fight on, but we cannot do this without the support of local residents who have been instrumental to date in preventing the pub from becoming yet another residential property development.

Mary Sheehan

Never on a Sunday?

The chairman of Old Court House residents' group, John Cookson, delivers his 'tour d'horizon' of the royal borough's building construction and destruction rules, and what to do if you are disturbed by the sound of a demolition gang.

Just pause for a moment in many of Kensington and Chelsea's leafy and not so leafy neighbourhoods, and you can hear it: the heavy thud of a jack-hammer here, the intense drone of a drill there, and the screech of an unseen electric saw. I'm talking about the noise from hordes of demolition gangs and builders across the borough; not only causing a din but also cluttering roads with their illegally parked lorries.

Ours is a mansion block on Kensington High Street and we haven't suffered the kind of noise disturbance families endure in some parts of the borough, where every other residence now seems to boast an underground basement excavated by troglodyte workmen and their tunnelling gear.

Lancer Square is another massive building site adjacent to us, but mercifully that monster development is often on hiatus for reasons not yet publicly disclosed.

The constant noisy refurbishment of shops

No, the bane of our lives is the noise generated by gangs of East European workmen hammering away the a parade of commercial premises on the ground floor of our block.

In these difficult days for retail, a business fails and the incoming new owners decide they want a wall knocked down. Worse still, another clothing chain flees the High Street and the freeholder then converts what was once a former department store into lots of little businesses; the current trend is for bakeries or coffee houses. (Do we actually need more of those in Kensington?)

And for us residents, the conversion of commercial premises below means long months of noise and dust from intense drilling, as they remove entire concrete floors, stairways and lift shafts. And all that's before they start constructing the a new commercial phoenix to rise from the ashes.

Recently, we found ourselves in a noise dispute over a new gym being built beneath us. The use of pneumatic drills at the weekend not only caused our building to shake but also made our windows and teeth rattle!

Aren't there laws about noise?

But wait a minute! Aren't there laws about noise? What are the "dos" and "don't's" governing those titans of the world of demolition and construction?

And isn't there something we can do to prevent our peaceful Sundays being shattered by the boom of yet another demolition team wielding power hammers?

Indeed there is, wrapped up in thousands of rules and regulations and crucially in a key statute adopted by the royal borough.

Interestingly, my investigation also opened up a Pandora's Box of related subjects like: how the borough classifies building work, the hours work can be carried out, and what you can do if the noise from builders or a neighbour with a buzz-saw is driving you up the wall.

Apparently, residents often call the council to ask if they need to permission to carry out DIY. Well, it all depends.

Putting up a shelf or two; obviously not, but what about knocking a wall down or building a kitchen extension?

As elsewhere in the UK, unless you live in a listed building, you don't need planning permission if the work is inside the home, but you may require approval under building regulations.

Categories of work which need a green light under "building regs" normally include extending a building or carrying out work that affects access or alters fire escape routes. If you're inserting insulation into cavity walls or underpinning foundations, then you also need approval. There are other categories and if in doubt, call the council's planning department.

Isn't weekend work a planning permission issue?

All major construction projects need, of course, formal planning permission, so when we residents were disturbed by pneumatic drills resonating through our mansion block one Saturday morning, I dug out the original planning consent for the conversion.

On it I noted an attachment with bold type: *Works allowed Monday to Friday 8am to 6pm. Saturday, Sunday and public holidays - none permitted.*

But this was a Saturday, "I've got them", I thought. So, on Monday morning I rang the council's planning department in high dudgeon.

A very patient council planning officer politely declined to get involved, and referred me to the borough's noise nuisance investigators, who are usually very helpful but under a lot of work pressure.

I persisted with the man in Planning: "But surely heavy drilling at the weekend is a breach of planning permission?" I pleaded.

Emphatically he replied it was not; and he was right. When the construction works were given planning consent, the hours of work were not stipulated - they never are.

Noisy weekend work is hardly ever allowed

The planning man advised me that the document I'd seen was an "informative" which tells builders that the borough has adopted what's known as the Code of Construction Practice, based on sections 60/61 of the Control of Pollution Act 1974, and that they must abide by it. It's this charter which is the key to a resident's right to challenge noisy weekend building work. The code has been in force since April 2016.

Under the code, "noisy works" (defined as "all works audible at the site boundary", i.e. the noise can be heard outside the site) can only be carried out on weekdays between 8am and 6pm and never on Saturdays, Sundays and public holidays.

It goes on: demolition and other high impact work, like breaking up concrete, can only be carried out weekdays between 9 am to noon and 2pm to 5.30 pm and never at the weekend or on public holidays.



Noise and dust from basement developments is a constant source of irritation for the neighbours.

Beside noise, the code also governs the levels of vibrations and dust allowed.

In addition, developers and contractors are advised to liaise with residents' associations and have a "communications strategy" in place to give advance notice of heavy noise and vibrations.

This adopted code is core to the council's planning policy and very helpful to residents making a complaint about noise. However, as I discovered, if you want work outside "legal" hours stopped, your only redress is to call in the noise nuisance teams. This is fine in theory, but, from my experience, at weekends it can take an hour or so for them to arrive, by which time intermittent drilling may well have stopped, only to start up again when the noise team has left.

One major annoyance for the borough's residents is noisy work that hasn't required planning approval. However, the code applies for any "erection, construction, alteration, repair or maintenance of buildings, structures or roads" - and that should basically cover most noisy work.

Noise from DIY work only allowed if temporary

But what about noisy DIY work? The borough's Code of Construction Practice states that "*DIY works – minor works, carried out by the occupier of a property – are not within the scope of the code unless the works are of a similar scale and nature to those carried out on a typical construction site where work is being carried out by contractors.*"

A council spokesperson told me: "We accept that homeowners working alone often have far less time to carry out home improvements than a paid contractor and so we do permit DIY activities to take place beyond the normal contractor's hours.

"We would generally consider it acceptable for DIY works to take place between 8am to 7pm (Monday to Saturday), and between 10am and 4pm on Sundays/Bank Holidays, provided the works are not particularly intrusive or taking place on a regular basis."

"What is reasonable is determined by the noise control officer on a case-by-case basis. The officer will consider the equipment used, the level of noise produced and the overall duration of the work.

Judging from the code text and what the spokesperson said, work is only regarded as DIY as long as it is done by the owner or occupant himself/herself and only if it is very temporary. If people are hired to do the work, it is by definition not DIY and noisy work should therefore not carry on after 6pm on weekdays and not at all at the weekend or on public holidays.

"Our" builders warned against weekend work

Back to our case: I'm pleased to say that the busy environment department's noise and nuisance service sent an officer around to the construction site below us the same day as my complaint and issued a S60 warning notice that they must observe the borough's Code of Construction Practice, as stated in section 60 of the Control of Pollution Act 1974, so now the rogue builders have stopped their weekend work. If they breach the code again they face a £5,000 fine.

However, elsewhere in Kensington and Chelsea builders will continue to breach the Code of Construction Practice by doing noisy work during evenings and on weekends, but when it happens, don't bother the planning department. The only way of curbing excessive noise is by notifying the noise nuisance team and then wait for them to turn up.

With construction now halted at weekends at Old Court House the only disturbance to residents is a persistent so called "busker" sprawled across the pavement in front of Whole Foods, murdering "*Bésame mucho*" on an amplified saxophone...

As I said, RBKC's noise nuisance team is always busy!

John Cookson

Don't miss these important
Kensington Society events!



Meet Sue Harris, one of the borough's new super bosses

Monday 26 November 2018, 6.30 for 7.00pm

The Small Hall, Kensington Town Hall

The structure of the borough's daily operations has drastically changed in the last few months, in order to make the organisation more responsive and flexible.

At an evening seminar in Kensington Town Hall, we'll meet Sue Harris, who is the head of the largest of the new "service areas", hear about various new initiatives, and get a chance to ask her questions about anything handled by the seven departments she leads.

Cost for members and non-members alike: £10



Once again: Christmas carols with St Mary Abbots School

Tuesday 6 December 2018, 6.00 for 6.30pm

The Mayor's Parlour, Kensington Town Hall

Just like last year, come and join us singing carols with the chamber choir from St Mary Abbots School, in the Mayor's Parlour. When we had this event last year, for the first time, some 85 parents and other grown-ups came to see and sing along with the 35 children in the choir.

We will have a good sing of traditional carols, which we can all join in with, and they are also giving us a special performance. All this will be followed by drinks and nibbles.

Cost for members and non-members alike: £10

Booking only via our website



SAVE THE DATE!

Monday 29 April 2018, 6:30 for 7:00pm

The Kensington Society AGM

On 29 April 2019 you are all welcome to our annual general meeting.

As usual it will be held in the Great Hall, at Kensington Town Hall, and will be followed by a wine reception in the Mayor's Parlour.

Our guest speaker this year is Dr Simon Thurley, former chief executive of English Heritage and director of the Museum of London.



Dr Thurley is an eminent historian and archaeologist. While at English Heritage, he devoted considerable amounts of time to finding ways of making heritage protection fairer and more effective, improving heritage protection law, government planning guidance and working on training projects with central and local government.

He is currently a senior research fellow at the Institute of Historical Research, University of London. He is also a trustee of the British Library and of the Society of Court Studies, which he helped to found 25 years ago.



Formed in 1953, the Kensington Society strives to ensure that our part of London retains its magnificent heritage of buildings, parks and gardens alongside the best of contemporary architecture and design.

With our 700 members and 33 affiliated societies, we are very active in planning issues and able to exert a real influence on planning decisions in the Royal Borough of Kensington & Chelsea. We also have a programme of lectures and talks, which covers a wide range of subjects, both historical as well as informative. The events offer the chance to meet your Kensington neighbours.

Interested in joining? It only costs £15 per year.

Membership form and booking form for events can be found on the Kensington Society website.

How to reach us:

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Kensington Society is a registered charity (number 267778)

The views expressed in this newsletter are those of the individual contributors and not necessarily those of the Kensington Society