

Kensington Forum Redevelopment

Garden Square Management Plan

Management Plan re: Planning Application PP/18/03461

The following terms are for incorporation in a S.106 Agreement.

1 THE RELEVANT LAND

- 1.1 The Garden Square¹ is to comprise a rectangular space of 2,702m². [See footnote]
- 1.2 “The Residents’ Garden” is an area along Courtfield Road, from Ashburn Place to the Garden Square of 193 m² being 7.2m deep and 26.8 m long.

2 THE RESIDENTS’ GARDEN

This is to have the appearance of an extension of the Garden Square so as to provide the visual amenity of a continuous garden along Courtfield Road from Ashburn Gardens to Ashburn Place and be maintained and treated in all respects of its appearance as part of the Garden Square.

3 PURPOSE

- 3.1 The Management Plan is intended to ensure the Garden Square is maintained by the freehold owner (and those deriving title through and under it) (“the Freeholder”) for the enjoyment of future users of the Garden Square in line with the Purpose, Objectives and the Freeholder’s Obligations.
- 3.2 The Management Plan is to ensure a clear framework for management and maintenance of the Garden Square, including
 - (a) Maintaining a high quality of experience and promoting positive use of the Garden Square
 - (b) Responding to change and user feedback
 - (c) Process for community involvement
- 3.3 The Management Plan will guide the day to day management of the Garden Square by the Freeholder whose responsibility the Garden Square will remain as part of its ownership.
- 3.4 A Garden Square Specification in respect of the Garden Square and the Residents’ Garden (“the Specification”) is to be approved under the S.106 Agreement and the conditions attached to the planning permission.
- 3.5 The planning conditions and S.106 Agreement (which will remain enforceable against the land and the Freeholder) will also require the Freeholder to ensure that:

¹ The proposed area of the re-arranged and consolidated Garden Square is as set out in the application documents – 2,702 sqm. This is greater than the current extent of the land protected by the London Squares Preservation Act 1931 following a Deed of re-arrangement in 1971. The further rearrangement and consolidation needs to be effected by a consent under Section 4 of the 1931 Act in order to give effect to the proposed Garden Square layout, which will be 2,702 sq m. The effect of the S.4 Order would be to designate this area as 1931 Act land so that 2,702 sqm will be the new extent of designated 1931 Act land.

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- (a) the Garden Square and the Residents' Garden are laid out in accordance with an approved Specification before first occupation of the new development
- (b) the Garden Square is maintained in accordance with this Management Plan
- (c) public access to the Garden Square is maintained in accordance with this Management Plan.

4 OBJECTIVES

4.1 Core objectives for the Garden Square are:

- (a) Maintenance to a high standard, at the cost of the Freeholder, that positively contributes to the quality of the local environment in line with principles of good estate management;
- (b) Safety and security for users of the Garden Square, hotel and homes within the development consistent with daily public access from dawn to dusk of the Garden Square where (subject to flexibility in accordance with Clauses 6.2 (b) (vii) and 6.3 (d) below):
 - (i) during March, April, May, June, July, August and September dawn is 6am and dusk is 9pm;
 - (ii) during October, November, December, January and February dawn is 7am and dusk is 6pm

5 FREEHOLDER'S OBLIGATIONS

5.1 The Freeholder will:

- (a) Provide public access to the Garden Square dawn to dusk, subject to reasonable closures necessary for security, maintenance and cleansing purposes, in accordance with the Purpose, Objectives and the Freeholder's Obligations
- (b) Be responsible for security arrangements in relation to the Garden Square at all times in accordance with the Purpose, Objectives and Freeholder's Obligations
- (c) Maintain the Garden Square, at the cost of the Freeholder, in line with the agreed Annual Management and Maintenance Programme
- (d) Keep a detailed log of:
 - (i) maintenance and management activity; and
 - (ii) user feedback
- (e) Present up to date information to the annual and quarterly meetings

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- (f) Implement actions agreed by the Committee to further the Purpose and the Objectives
- (g) Hold no commercial or other events or activities in the Garden Square including (but not limited to) no wedding parties nor marquees, subject to Clause 6.2(b)(vi).
- (h) Comply with this Management Plan
- (i) Play no amplified music in the Garden Square.

6 ROLES

6.1 A Management Committee will be constituted by eight members as follows:

- (a) local residents (four members):
 - (i) including (subject to 6.1(a)(ii)) one representative (who need not be the same person on each occasion) from each of the following named groups: Ashburn Courtfield Gardens Residents Association, Ashburn Garden Square Garden Association, Residents' & Owners' Group and one occupier of the new residential properties;
 - (ii) Where any one or more of the aforesaid fails to nominate a representative having received at least 6 weeks' notice of the Management Committee's annual meeting, the member for such group shall be substituted with:
 - (aa) a person nominated by a local community group which is registered with the Royal Borough of Kensington and Chelsea (the Committee of which includes an Officer who owns and resides in a property which is situated in Ashburn Gardens or Courtfield Road); or
 - (bb) failing a nomination from any such group mentioned in 6.1(a)(ii)(aa), such local resident as may be appointed by a ballot of residents of Ashburn Gardens or Courtfield Road
- (b) the hotel operator (two members); and
- (c) the Freeholder (two members).

6.2 The Committee will meet annually (and will be given two months' notice of the date thereof) to:

- (a) Review the following and resolve whether the Freeholder has complied with its Obligations in all respects:
 - (i) An audit of the Garden Square and management and maintenance performance over the preceding year against the Objectives
 - (ii) Performance against the previous year's targets and KPIs

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- (iii) The Garden Square Byelaws approved under (b)(i)
 - (b) Agree the following (and there is to be no casting vote of the Chair in the event of equality of votes):
 - (i) At the first meeting (to take place prior to the Garden Square being laid out), Byelaws that the Freeholder will be entitled to apply in managing the Garden Square (and thereafter, any changes to those rules may only be made at Annual Meetings)
 - (ii) Key Management Targets and KPIs for the coming year
 - (iii) Any proposed changes to the Specification
 - (iv) Any proposed applications for grant funding to support the Objectives
 - (v) The Annual Management and Maintenance Programme (providing a detailed schedule of elements for inspection/ maintenance and immediate/ annual actions)
 - (vi) Any proposed community events which are open to all local residents
 - (vii) Any extensions of the opening and closing times of the Garden Square as currently set out at 4.1 (b) above.
- 6.3 The Committee will meet quarterly (and will be given one month's notice of the date thereof) to review:
- (a) logged management and maintenance activity against the Annual Management and Maintenance Programme;
 - (b) user feedback;
 - (c) proposals by the Freeholder for closures for any security, maintenance or cleansing or other purposes consistent with the Purpose and Objectives and the Freeholder's Obligations of more than 2 working days;
 - (d) Clause 6.2 (b) (vii) above.

7 CO-OPERATION

- 7.1 Where the annual Management Committee fails to pass a resolution to agree an item or matters under 6.2(a) or (b):
- (a) that item or matters will be tabled for agreement at next Quarterly meeting
 - (b) where it is not agreed at that meeting (and it is not agreed to hold a further meeting to consider it again);

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- (i) the Committee members will appoint an expert for the purpose (and if the mediator is not agreed within 21 days, shall ask the President of the Centre for Effective Dispute Resolution to appoint a mediator)
 - (ii) the mediation will follow the Centre for Effective Dispute Resolution's Model Mediation Procedure
- (c) where such item or matters are not agreed following mediation:
- (i) any Committee member shall be entitled to refer it to an independent and suitable person holding appropriate professional qualifications; in the absence of agreement to that person within 21 days by the Committee, such person is to be appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error.
 - (ii) such expert shall:
 - (aa) be subject to the express requirement that a decision be reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight days after the conclusion of any hearing that takes place or twenty-eight days after he or she has received any file or written representation;
 - (bb) act as an expert and not an arbitrator.
 - (cc) be required to give notice to each of the parties requiring them to submit to the expert within ten working days of notification of his or her appointment written submissions and supporting material and each party will be entitled to make a counter written submission within a further ten working days.

7.2 The Freeholder shall be responsible for the reasonable and properly incurred-costs of any Mediator and any Expert.

FOOTNOTE 1:

The proposed area of the re-arranged and consolidated Garden Square is as set out in the application documents – 2,702 sqm. This is greater than the current extent of the land protected by the London Squares Preservation Act 1931 following a Deed of re-arrangement in 1971. The further rearrangement and consolidation needs to be effected by a consent under Section 4 of the 1931 Act in order to give effect to the proposed Garden Square layout, which will be 2,702 sqm. The effect of the S.4 Order would be to designate this area as 1931 Act land so that 2,702 sqm will be the new extent of designated 1931 Act land.