



Appeal Decisions

Site visit made on 13 July 2021

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Appeal A Ref: APP/K5600/W/20/3260897

10 Norland Square, London W11 4PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs O'Connor against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref: PP/20/00903, dated 7 February 2020, was refused by notice dated 3 September 2020.
 - The development proposed is described as construction/ reinstatement of a rear extension (outrigger) to the existing closet wing to provide an extra storey (to match original plan form and neighbouring properties) and the replacement of the existing conservatory at lower ground floors with a two-storey glazed infill extension (between 9 Norland Square and the existing closet wing) and minor internal alterations to the Property at lower ground and upper ground floor levels only.
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Appeal B Ref: APP/K5600/Y/20/3260896

10 Norland Square, London W11 4PX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs O'Connor against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref: LB/20/00904, dated 7 February 2020, was refused by notice dated 3 September 2020.
 - The works proposed are described as construction/ reinstatement of a rear extension (outrigger) to the existing closet wing to provide an extra storey (to match original plan form and neighbouring properties) and the replacement of the existing conservatory at lower ground floors with a two-storey glazed infill extension (between 9 Norland Square and the existing closet wing) and minor internal alterations to the Property at lower ground and upper ground floor levels only.
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Decisions

1. **Appeal A:** The Appeal is dismissed.
2. **Appeal B:** The Appeal is dismissed.

Preliminary Matters

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. Following the determination of the applications and during the course of the appeals, the London Plan was formally adopted in March 2021 and a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The LP 2021 replaces the London Plan 2016 and the revised Framework replaces the 2019 version. The main parties have been

given the opportunity to comment on the implications of these changes for the appeals. I have had regard to any responses received in my determination of the appeals and my decisions are made in the context of the LP 2021 and the revised Framework.

5. The appeals relate to a Grade II listed building which is located within the Norland Conservation Area (the CA). The Council's reason for refusal for both applications relating to heritage matters focus on the effects of the proposed 'rear extension and glazed infill extension' on the listed building and the CA. In addition, in its statement of case, the Council raises no concerns about any other aspects of the proposal. On this basis, I consider it reasonable to conclude that the other development and works proposed are acceptable to the Council.
6. I have had regard to the statutory duties under sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). From the evidence before me and my observations on site, I find no reason to take a different view and consider that, excluding the disputed elements and subject to appropriately worded conditions, the proposal would preserve the special architectural or historic interest of the Grade II listed building and preserve the character and appearance of the CA. I have therefore focused my considerations of the appeals on the effects of the proposed rear extension and glazed infill extension on the listed building and the CA.
7. A previous scheme for the 'removal and replacement of lower ground floor rear conservatory; addition of glazed conservatory extension to rear ground floor; removal of modern-era window and historic brick cill below to provide access', was granted planning permission and listed building consent in December 2016¹. This permitted scheme has been partly implemented as confirmed under Ref: CL/19/08485 and so could be fully implemented in the future. On my site visit I noted that development and works were underway.
8. In addition, during the determination of the appeals, planning permission and listed building consent were granted for 'replacement conservatory at lower ground floor, with two-storey glazed infill extension (between 9 Norland Square and existing closet wing); internal alterations at lower ground and ground floor levels, replacement rear staircase and removal of paintwork to rear elevation' in February 2021².
9. I have determined the appeals on their own planning and conservation merits, while having regard to the extant permitted schemes.

Main Issues

10. The main issues are:

- Whether the proposal would i) preserve the special architectural or historic interest of the Grade II listed building, 2-18 Norland Square, and ii) preserve or enhance the character or appearance of the Norland Conservation Area (Appeals A and B); and

¹ Application Refs: PP/16/07126 and LB/16/07127. Granted permission and consent on 22 and 19 December 2016 respectively.

² Application Refs: PP/20/06105 and LB/20/06106. Granted permission and consent on 17 February 2021.

- The effect of the proposal on the living conditions of occupants of No 11 Norland Square, with regard to outlook and sunlight (Appeal A).

Reasons

Heritage Issues

Special interest and significance

11. Number 10 Norland Square (No 10), is a four storey with lower ground floor, mid-terrace, residential property. It forms part of a Grade II listed building, Nos 2-18 Norland Square (consecutive) (Nos 2-18). Dating from 1837-46 and listed in 1969, Nos 2-18 are an integral component of the Norland Square layout, a fine architectural set piece with houses laid out around a central private communal garden. The terrace of Nos 2-18 forms the eastern side of the Square.
12. Constructed in the Classical style with a uniformly coloured ornamented stucco front, the principal facades of Nos 2-18 present a formal, harmonious and aesthetically pleasing frontage. In contrast, the mostly exposed brick rear elevations of the properties, although imposing, are architecturally more restrained and utilitarian. Moreover, extensions and/or alterations to the shallow closet wings and/or deeper outriggers, along with infill extensions have eroded to a degree the homogeneity and coherence of the rear elevations of Nos 2-18 as a whole. This has resulted in, what is described by the Inspector in the determination of appeals relating to No 11 Norland Square (No 11)³, as an 'irregular rhythm'.
13. From the evidence before me, the special interest and significance of the listed building largely stem from its historic and architectural interests. Its historic interest is primarily in respect of its illustration of mid-19th century domestic architecture and associated social history. While its architectural interest lies mainly in its elegant and well-proportioned Classical form. There is also heritage value in Nos 2-18 as a group and the contribution the listed building makes to the attractive composition of the wider planned townscape and the communal cherished local scene.
14. In so far as it pertains to the appeals, the building's special interest and significance are primarily associated with its historic and architectural integrity, to which the status differentiation reflected in the building's front and rear elevations, the legibility of the historic architectural features of the rear elevation, the readability of its extant historic plan-form and its surviving historic fabric all contribute.
15. The site is also located within the CA. The character appraisal sets out that the CA is focussed on the Norland Estate, a planned estate dating mainly from the 1840s and 1850s set around two gardens squares and a crescent, on the then outskirts of London⁴. The impressive grandeur of the buildings, augmented by the harmonious nature of the principal facades and uniformity of the materials, along with the pleasant verdant quality of the spaces between them, are important and positive characteristics of the CA. In addition and notwithstanding their sometimes concealed nature, the contrasting unadorned and functional secondary rear elevations are also notable elements of the CA,

³ 11 Norland Square, Appeal Decision Refs: 2216019 & 2216024, 2216020 & 2216025, and 2216022 & 2216026.

⁴ Section 1.5 Norland Conservation Area Appraisal. (Draft 2018).

albeit in a lesser way. The heritage merit of Nos 2-18 contributes positively to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.

Effects of the appeals proposal

16. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
17. The proposed rear extension would sit directly on top of and occupy the same footprint as the existing lower ground floor level outrigger. French doors of a style which would reflect those in the shallow closet wings at first floor level would be incorporated into the rear elevation of the lower and upper ground floor levels. Metal stairs would allow access from the upper ground floor level down to the garden.
18. The appellants contend that this part of the proposal would reinstate a significant historic feature and the historic plan-form of the property, as well as re-establishing the architectural coherence of Nos 7-11 Norland Square (Nos 7-11), cited by the main parties as a distinctive subgroup within the terrace.
19. The two historic OS maps and drainage plan⁵ submitted as part of the appeals illustrate the presence of deep outriggers to the rear of Nos 7-11 as early as the mid-1860s. However, they do not confirm the height of these structures at that time. The only proof provided regarding this aspect of the outrigger in relation to No 10 are archive drawings dating from 1959. These show proposed alterations to the property, including the demolition of an upper ground floor storey⁶.
20. In these regards, the appellants assert that whilst an outrigger at a height of two storeys on the building may not be original, it is part of the property's early historic development and therefore part of its narrative. This is confirmed and reflected in the historic two storey height of Nos 7, 8, 9 and 11, although 7 and 8 have been increased in height to first floor level.
21. The proposed rear extension would reflect the proportions of the outrigger on the building in 1959 and would echo the height, scale and massing of outriggers to the adjoining properties of Nos 9 and 11. In addition, given the appellants' assertion that the brickwork and windows of the existing lower ground floor are later replacements of mid-20th century date, which is not contested by the Council, the insertion of French doors in this location would not involve the loss of historic fabric.
22. However, in determining whether the principle of 'reinstating' this level is acceptable, the lack of substantive or robust evidence as to when the outriggers to Nos 7-11 were added and what form they took at that time or after, is a concern. This limits a full understanding of the outriggers' position in

⁵ OS Plans of 1867 and 1896 plans and drainage plans of 1894.

⁶ Archive Drawings Alterations to No 10 Norland Square, Dating from 1959 DRWG.NO.L/397/4 and DRWG.NO.L/397/3.

the hierarchy of significance of the component parts of No 10 and the listed building. From the appeal submissions and my observations on site, it appears that, across the rear elevation, the shallow closet wings are key features of special architectural and historic interest. The two storey outriggers partially mask these significant elements of the building. Therefore, even though the addition of the outriggers may be part of the building's narrative, the 20th century loss of the upper ground floor level at No 10 was, and still is, beneficial in enhancing the legibility of a more significant element of No 10 and the listed building. As such, I am not satisfied that the proposed rear extension would conserve the listed building in a manner appropriate to its significance.

23. Even if I accepted the appellants' argument and the principle of this element of the proposal, I am not persuaded that the detailed design of the rear extension would return the building to a 'closer approximation of its late 19th century form'⁷. The proposed French doors at both levels along with a set of steps from the upper ground floor level to the garden are not characteristic or reflective of any of the two storey outriggers included within the evidence provided or which I was able to view on site. This discordant access would diminish rather than enhance the legibility of No 10's historic plan form.
24. I also question the ethics in conservation terms of the proposed rear extension. The historic fabric of a listed building is the primary source from which knowledge and meaning can be drawn. Once it has been removed, the intrinsic heritage interests and significance of that part of the structure are essentially lost. The reinstatement of this part of No 10 to a point in time chosen by the appellants, without compelling evidence to support its proposed form and design, would result in conjectural restoration which would only serve to confuse the onlooker.
25. The proposal would re-establish the pattern of two-story outrigger additions with No 9 and No 11. However, given the changes which have occurred to Nos 7, 8 and 12, it would not formalise this within the identified sub-group of Nos 7-11. Moreover, any consistency gained as a result of the proposal would be undermined by the presence of the proposed French doors and steps on the rear elevation of the extension.
26. In any event, given the identified 'irregular rhythm' of closet wings and outriggers along the rear of the terrace, the absence of an upper ground floor level to No 10's outrigger is not immediately perceived as a discordant anomaly. Furthermore, its 'reinstatement' would not enhance any coherence across the rear of the terrace as a whole, rather further disrupt the legibility of the important shallow closet wings.
27. I am aware that the rear extension would be constructed of complementary materials, the detail of which could be controlled by appropriately worded conditions that the appellants have agreed to. However, these factors do not overcome the fundamental objections to the principle of this element of the proposal.
28. The proposed two-storey glazed infill extension would be located within the recess created by the proposed two storey outrigger at No 10 and the existing two storey outrigger at No 9. It would comprise a lower ground floor, set back from the rear elevation of the outrigger; an upper ground floor, set back

⁷ Planning and Heritage Statement, Ben Cornwell, February 2020.

further still and positioned below the height of the upper ground floor outrigger extension; and a lantern element over the brick header of the former window opening. This would be set in from the boundary with No 9 to maintain light and ventilation to the existing window on the side elevation of the dwelling's closet wing.

29. The removal of the inharmonious barrel shaped extension at lower ground floor level, which had already been carried out when I visited the site, positively benefits the special interest of the listed building in allowing the characteristic solid to void rhythm of closet wings to lightwells to be perceived. In addition, the design and materials of the replacement structure would mostly be minimalist and lightweight. This would result in a contemporary, honest intervention which would allow the historic fabric of the building to be read.
30. Nevertheless, as identified in the schemes granted in 2016 and more recently in 2021, accessing this element of the proposal would involve the removal of the existing rear ground floor window and dropping of the cill with the consequent removal of historic panelling. This would involve the loss of historic fabric and would alter the character of this principle rear room, causing harm to the special interest and significance of the listed building.
31. Furthermore, the anthracite black standing seam zinc roof at all three levels would be unduly prominent, emphasising the stepped design approach, to the detriment of the scheme. In these regards, I am not persuaded that the proposed glazed infill extension would adequately reflect the predominant solid to void rhythm, albeit irregular, along the rear of the terrace as a whole.
32. I am aware of the conscious high quality design intent for this element of the proposal and note the willingness of the appellants to accept the suggested conditions. Nonetheless, these would not sufficiently mitigate the harm. I am also very mindful of the existing consents and the previous permission for a glazed infill extension at No 11. However, for the reasons outlined under 'Other Matters' below, their weight in the determination of the appeals before me is reduced.
33. In considering the rear extension and glazed infill extension together, although they would be physically subordinate to the host building, they would not be visually subservient to it. Whilst they may, as contended by the appellants, provide a degree of 'balance' to the other, cumulatively they would negatively change how No 10 is experienced and in doing so undermine the special interest and significance of the listed building.
34. Although these harmful effects would be highly conspicuous and readily perceived from the private domain of adjacent properties, they would not be visible from the public domain. This limits the degree of harm that the proposal would incur to the special interest of the CA. Nevertheless, given the key contribution that Nos 2-18 make to the positive characteristics of the CA and the cherished local scene, it would be reasonable to conclude that its incremental and harmful alteration due to the proposal, would also weaken the character and appearance of the CA as a whole, albeit very modestly.
35. Having regard to the above, I consider that the proposal would not preserve the special architectural or historic interest of the Grade II listed building, 2-18 Norland Square and would not preserve or enhance the character or

appearance of the Norland Conservation Area. In doing so it would harm the significance of these designated heritage assets.

Public benefits, balance and conclusion on heritage issues

36. With reference to Paragraphs 201 and 202 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the moderate extent and localised nature of the development and works relative to the listed building and CA, I find the harm to the designated heritage assets to be less than substantial in this instance. However, this should not be equated with a less than substantial planning objection and is of considerable importance and weight. Under such circumstances, Paragraph 202 advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
37. There are elements of the proposal which would be positive and of public benefit. Heritage benefits would accrue from the removal of the existing conservatory; removal of all down-lights; removal of the paint from the rear façade; reinstatement of the dividing wall and single doorway between the front room and hallway at lower ground floor; and reinstatement of the single door between the WC and the study at lower ground floor. Of themselves, these parts of the proposal would sustain and enhance the significance of the listed building and the character and appearance of the CA, and contribute to their long-term conservation as designated heritage assets. There would be some economic benefits brought about through the investment into the property and the construction phase; and social benefits would be gained in improvements to the local housing stock.
38. These outcomes would assist the delivery of the main objectives of the planning system as outlined in the Framework. Even though much of the improvements would not be accessible to the general public, they would still represent benefits to the public at large. The scale of the benefits is tempered by the limited extent of the proposal, but still carry moderate weight in favour of the appeals.
39. Nonetheless, the primary outcome of the proposal of creating additional accommodation would solely be of private benefit to the appellants or any future occupants of No 10. Although I acknowledge the natural desire of the appellants to adapt the building to their needs, this should not involve development and works that would compromise the building's conservation to an unacceptable degree and would not conserve it in a manner appropriate to its significance.
40. I am not persuaded that the development and works, as proposed, are fundamentally necessary to facilitate the building's use as a family home consistent with 21st century living standards. Nor am I convinced that the only way of securing such public benefits would be by means of the particular development and works proposed. Indeed, they could be partially or fully achieved through the implementation of the extant permitted schemes.
41. No compelling evidence is before me which verifies that the property would not be useable or viable as a dwelling or that its conservation as a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, particularly the contested elements, was not implemented. In these

respects, clear and convincing justification for the harm that would occur to the significance of the designated heritage assets because of the proposal, has not been provided.

42. Whilst I give moderate weight to the recognised public benefits which the proposal would generate, these are not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets.
43. Drawing the above together, I conclude that the proposal would fail to preserve the special architectural or historic interest of the Grade II listed building, 2-18 Norland Square; and would not preserve or enhance the character or appearance of the Norland Conservation Area. As such, the proposal would fail to meet the requirements of sections 16(2), 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment.
44. The proposal would also conflict with Policies CL1, CL3, CL4, CL9 and CL11 of the Kensington & Chelsea Local Plan, 2019 (the K&C LP) which, together and amongst other things, seek development and/or works to respect the existing context, character and appearance; preserve or enhance the character or appearance of conservation areas; protect the heritage significance of listed buildings; allow the form of the original building to be clearly understood, and to reinforce the character and integrity of the original building, or group of buildings; and protect and enhance views, vistas, gaps and the skyline that contribute to the character and quality of the area. It would also not comply with Policies N1 and N3(b) of the Norland Neighbourhood Plan, 2013 which seek to ensure that new development complements or enhances the existing character and takes account of the context of the street scene; and that rear and side extensions remain subservient to the host building. As a result, the proposal would not be in accordance with the development plan.

Living conditions of occupants of No 11 Norland Square

45. Policy CL5 of the K&C LP requires all developments to ensure good living conditions for occupants of new, existing and neighbouring buildings.
46. No 11 lies to the north of No 10. At present, a brick wall with an open trellis fence on top provides the shared boundary between the two properties. At the rear of No 11 is a two-storey, glazed infill extension at lower ground floor and upper ground floor levels, which sits in the recess between the shared boundary with No 10 and No 11's existing two-storey outrigger.
47. The upper ground floor of the glazed infill is used as a breakfast room/family hub and it is common ground between the parties that it is a habitable room. This space leads out onto a small open terrace with steps down to the garden. The upper ground floor level of the outrigger is used as a study and possesses a partially glazed door in the side elevation facing the terrace and a window in the rear elevation facing the garden.
48. The proposed rear extension at upper ground floor level to No 10, would increase the height of the side boundary wall between No 10 and No 11 by approximately 1.5m for a projection of about 2.5m beyond the rear elevation of the upper ground floor of No 11's glazed infill.

49. Part d) of Policy CL5 requires that there is no harmful increase in the sense of enclosure to existing buildings and spaces, neighbouring gardens, balconies and terraces.
50. I acknowledge that the expanse of glazing within No 11's infill at upper ground floor level permits wide views out of the breakfast room and I note the primary window in the study would not be affected by the proposal. Nevertheless, the increase in height and projection of the solid shared boundary between the properties as a result of the proposal, in such close proximity to the adjacent rooms and spaces, would cause it to be an unduly overbearing and oppressive structure when viewed from the breakfast room, study and small terrace area of No 11.
51. Whilst the changes may be fairly modest, given the stated regular family use of these areas, it would create an everyday uncomfortable sense of enclosure on a permanent basis. This would adversely affect the outlook of the occupants of No 11 to a harmful degree and diminish their enjoyment of the use of these rooms and spaces.
52. I am cognisant of the high density urban context of the site. However, this does not vindicate the acceptance of development which would harm the living conditions of neighbouring occupants.
53. Part b) of Policy CL5 seeks to ensure that good standards of daylight and sunlight are achieved in new development and in existing properties affected by new development; and where they are already substandard, that there should be no material worsening of the conditions. Supporting text to the policy advises that 'In assessing whether sunlight and daylight conditions are good, both inside buildings and in gardens and open spaces, the Council will have regard to the most recent Building Research Establishment (BRE) guidance, both for new development, and for properties affected by new development.'
54. I have had regard to the reports submitted and referenced by the appellants and the occupants of No 11 on this matter⁸. The conclusions of the assessment commissioned by the occupants of No 11 are stark, stating that the proposal would give rise to notable reductions in the levels of sunlight available to the breakfast room, study and small terrace area of No 11, particularly in the winter months⁹.
55. I have no reason to question the figures reached by the assessments. However, I am mindful that, as highlighted by the appellants, due to its orientation, the glazed infill falls outside the remit of testing requirements of BRE guidelines¹⁰. Additionally, that both the breakfast room and the study have alternative sources of receiving light, which the assessments indicate would be unaffected by the proposal. Whilst I acknowledge that the BRE guidance is there to help rather than constrain the designer and that there is flexibility with

⁸ Consil Ltd Report, Daylight Amenity, dated 15 Oct 2019; Waldrams Daylight and Sunlight Report, dated 18 March 2020; Consil Ltd Report, Daylight and Sunlight Amenity, dated 3 April 2020; Letter from Waldrams, dated 11 January 2021 and Daylight and Sunlight Report for 11 Norland Square, dated March 2014.

⁹ The level of sunlight received by the glazed infill would reduce from 35% Annual Probable Sunlight Hours (APSH) to 17% APSH over the year, (below the 25% level recommended by the BRE guidance); and from 6% APSH to 0% APSH during the winter months; the levels of sunlight received by the glazed door to the study would reduce from 42% APSH to 38% APSH over the year and from 8% APSH to 4% APSH during the winter months; and the level of sunlight available to the outdoor terrace on 21st March would reduce from 28% to 6%.

¹⁰ Paragraph 3.2.3 of the Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice British Research Establishment.

the interpretation of the numerical guidelines, these deficiencies reduce the weight I can attach to the conclusions of No 11's assessments in the determination of the appeal.

56. That said, it is clear that the proposal would lead to less sunlight being received into the breakfast room, study and small terrace. These changes would result in these rooms and spaces being slightly less pleasant places to live or dwell in and given the frequency of their use, would be keenly felt by the occupants of No 11. Whilst, of itself and in terms of the BRE guidance, the reduction in available sunlight would not harm the living conditions of the occupants of No 11 to a material degree, it would still lessen their enjoyment of the property as their home. It would also compound the harm found in terms of outlook.
57. Accordingly, I conclude that, the totality of the negative effects arising from the proposal on the living conditions of the occupants of No 11, with regard to outlook and sunlight, would be harmful. In this respect it would conflict with Policy CL5 of the K&C LP referred to above.

Other Matters

58. In coming to my conclusions I have had regard to the extant permitted schemes for glazed infill extensions between No 9 and the existing outrigger at No 10. The 2016 scheme¹¹, although minimalist in form, design and materials, would be of a larger footprint and greater massing than the proposal before me. In these regards, the harmful effects of this element of the 2016 scheme on the designated heritage assets would be greater than the appeals proposal. However, that the appellants have sought to obtain planning permission and listed building consent for a revised version of this element in the 2021 scheme¹², calls into question the real prospect of the 2016 scheme being fully implemented should the appeals be dismissed.
59. Taking the above into account, it would logically follow that there is a greater than theoretical possibility that the 2021 scheme would be fully implemented if the appeals were not allowed. Nevertheless, due to refinements in the design detail of the glazed lantern, I consider that the 2021 scheme would be less harmful than the glazed infill element of the appeals proposal.
60. In any event and crucial to the consideration of both permitted schemes as fallback positions, neither include the upward extension of the existing outrigger and therefore are not wholly comparable. Given this and for the reasons outlined above, neither of the permitted schemes would be as harmful as the appeals proposal in relation to the special interest and significance of the designated heritage assets and the living conditions of occupants of No 11.
61. All of these considerations severely limit the weight that I can attach to the permitted schemes as fallback positions.
62. My attention has been drawn to 'similar scale developments' on neighbouring buildings which have been granted planning permission and listed building consent by the Council¹³. I am particularly mindful of the development and works approved to No 11. Nonetheless, conversely, representations submitted

¹¹ Application Refs: PP/16/07126 and LB/16/07127. Granted permission and consent on 22 and 19 December 2016 respectively.

¹² Application Refs: PP/20/06105 and LB/20/06106. Granted permission and consent on 17 February 2021.

¹³ Table A1 in Grounds of Appeal. ADL Planning Ltd.

by interested parties outline other similar developments which have not gained the support of the Council. Moreover, I note that the majority of the permitted schemes predate the adoption of the K&C LP in 2019 and the latest revision of the Framework in 2021. These are material changes to the local and national policy context within which applications are assessed and determined and lessen the weight I can attach to the previous approvals in my determination of the appeals.

63. Crucially, apart from the development and works to No 11, limited details of the proposals cited and no information of the circumstances which led to their approval have been submitted. As such, I am unable to make any meaningful comparisons with the proposal before me. Furthermore, in relation to No 11 where I am able to compare the development and works, it is evident that there are fundamental differences in the elements included in the two schemes, as well as differences in the detailed design of the glazed infills. In any event, the fact that apparently similar developments exist on the terrace or within the wider area is not, in itself, a reason to allow unacceptable development. I have considered the appeals proposal on its own merits and found that it would cause harm as outlined above.
64. The Council has not raised any concerns regarding any potential effects of the proposal on adjacent trees, flood risk and drainage and I note the suggested conditions covering these matters which the appellants have confirmed they agree to. I am also aware that, following the submission of a structural report, the Council considers that the proposal would not give rise to any structural issues for the host or neighbouring properties. From the submitted information on these matters, I agree. However, an absence of harm in these regards are neutral considerations in the planning balance.
65. I have given careful consideration to the representations submitted by interested parties and the matters raised regarding the proposal which are not included within the Council's reasons for refusal. Whilst I acknowledge the additional concerns raised, from the evidence before me and my observations on site, I have no reason to take a different view from the Council in concluding that the proposal would not give rise to any harmful effects in relation to these matters. In any event, given my findings on the main issues, these matters are not determinative.
66. I note the extensive and positive pre-application and post-application dialogue between the appellants and Council officers regarding the proposal. I am also aware that the applications were recommended by Council officers for approval but were overturned at Committee. Nevertheless, informal advice provided before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. Moreover, the Council is not duty bound to follow the advice of its officers.

67. None of the other matters raised alter my conclusions on the main issues.

Overall Balance and Conclusions

68. Having regard to the economic, social and environmental objectives of the Framework, the benefits which would accrue from the proposal are as set out above in the heritage balance and carry moderate weight in the appeals' favour. I note the matters upon which the Council raised no concerns.

However, a lack of harm in these regards weighs neither for nor against the appeals in the planning balance.

69. Conversely, I conclude that the proposal, specifically the rear extension and glazed infill extension, would fail to preserve the special interest of the listed building and would not preserve or enhance the character and appearance of the CA. In addition, I find that the totality of the negative effects of the proposal with regard to outlook and sunlight would harm the living conditions of occupants of No 11. Together, these matters attract substantial weight against the appeals and demonstrably outweigh the moderate benefits that the proposal would generate.
70. **Appeal A:** The proposed development would conflict with the development plan. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
71. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

F Cullen

INSPECTOR