
Appeal Decisions

Site visit made on 27 September 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal A Ref: APP/K5600/W/22/3303796

29 Lansdowne Crescent, London W11 2NS

- 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 Keith MacRae of Lofts Inc Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/21/06931, dated 25 October 2021, was refused by notice dated 9 May 2022.
 - The development proposed is described as 'Refurbishment, restoration and extension to restore the building to a single family dwelling house'.
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Appeal B Ref: APP/K5600/Y/22/3307513

29 Lansdowne Crescent, London W11 2NS

- 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 Keith MacRae of Lofts Inc Ltd against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/21/06932, dated 25 October 2021, was refused by notice dated 9 May 2022.
 - The works proposed are described as 'Refurbishment, restoration and extension to restore the building to a single family dwelling house'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed, and listed building consent is granted for the refurbishment, restoration and extension to restore the building to a single family dwelling house at 29 Lansdowne Crescent, London W11 2NS in accordance with the terms of the application Ref LB/21/06932 dated 25 October 2021 and the plans submitted with it subject to the conditions set out in the attached schedule.

Preliminary Matters

3. The proposals relates to development and works at 29 Lansdowne Crescent, which forms part of the Grade II listed building 29-38 Lansdowne Crescent, located within the Ladbroke Conservation Area (CA). The description of the proposal is the same for both the planning appeal (Appeal A) and the listed building consent appeal (Appeal B), although the legal regimes are different. I have borne in mind my statutory duties in respect of sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the

Act) as appropriate. However, to reduce repetition, I have dealt with both appeals together in this decision letter unless stated otherwise.

4. The National Planning Policy Framework (the Framework) was updated on 5 September 2023 and after the submission of the appeals. The policies relating to the supply of homes and historic environment have remained unchanged within the new version of the Framework, which is a material consideration.

Main Issues

5. The main issues are:

- In relation to Appeal A only: The effect of the proposals on the supply and choice of housing having regard to local and national planning policies, and;
- In relation to Appeals A & B: The effect of the proposals on the special interest of the Grade II listed building known as 29-38 Lansdowne Crescent (the listed building) and the character and appearance of the CA.

Reasons

Supply and choice of housing

6. Policy CH1 of the Royal Borough of Kensington and Chelsea Local Plan, September 2019 (LP) states that the Council will boost the supply of homes in the borough, which aligns with the Government's similar objective referred to in paragraph 60 of the Framework. One way of doing so contained in policy CH1 is to resist the loss of residential units through amalgamations of existing homes, although an exception is permitted if the amalgamation would result in the net loss of one unit only, and the total floorspace of the new dwelling created would be less or equal to 170m² gross internal area.
7. The explanatory text at paragraph 23.3.9 of the LP refers to the overwhelming need for additional homes across the borough and that proposals to amalgamate existing units to create larger residential dwellings hamper the ability to address that need. Paragraph 23.3.10 confirms the Council's view that in this context, proposals that would reduce the overall number of units have significant planning consequences. Therefore, they are a material change of use and consequently, require planning permission.
8. The appellant disagrees with that view and asserts that the proposal to revert to a single dwelling in this case does not amount to development. Nevertheless, appeal A relates to an application for development that would result in a single dwelling house. A certificate of lawfulness relating to that element of the proposal has not been secured to conclusively show that this aspect does not amount to development requiring planning permission. Furthermore, I am required to assess the proposal against the policies in the development plan¹ and I have made my determination on that basis.
9. The appeal property presently accommodates three maisonettes. As illustrated on the existing floor plans these comprise a three bed unit on the lower ground and ground floors, a three bed unit on the first and second floors and a three

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

bed unit on the third and fourth floors. The proposal would result in a single dwelling with five bedrooms, with a floorspace exceeding the limit referred to in policy CH1. Accordingly, there would be a net loss of 2 units and the circumstances would not fall within the exception permitted by policy CH1. Hence, conflict with the policy arises. In addition, the proposal would run counter to the encouragement given in the Framework for development that makes effective use of land.

10. My attention is drawn to other instances² where the amalgamation of residential units was considered by the Council. However, the examples all predate the adoption of the LP in 2019, and so were determined prior to the evidence supporting policy CH1 of the LP being considered and examined in public. In that respect, they would tend to illustrate the pressure for amalgamation that policy CH1 in part seeks to address.
11. Moreover, three of the examples concern applications for certificates of lawfulness, which follow a different process than appeal A. As such, they would not have been assessed against the development plan and so have little relevance to the proposal before me. The example at 32 Lansdowne Crescent generally reinforces the Council's position regarding the requirement to obtain planning permission, although as it is not shown that it was assessed against policy CH1 of the LP, it carries limited weight. Hence, I am not persuaded that any of the examples provided lead me to a different outcome regarding my assessment of appeal A against policy CH1 of the LP.
12. Furthermore, policy CH3 of the LP requires new residential development, amongst other things, to include a mix of types and sizes of homes to reflect the varying needs of the borough. Paragraph 23.3.49 of the LP explains that the evidence of need shows an equal split between smaller (1-2 bedrooms) and larger (3-4 plus bedrooms) units. Following those definitions, the proposal would result in a loss of two larger units, culminating in a single even larger unit. Hence, it would do little to further the mix of available homes in the borough relative to need.
13. Accordingly, I find that the proposal in appeal A would have a harmful effect on the supply and choice of housing. Therefore, it would conflict with policies CH1 and CH3 of the LP and the thrust of national planning policy which seeks both to significantly boost housing supply and use land efficiently.
14. The second reason for refusal on the Council's decision notice also refers to policies 3.3 and 3.14 of the London Plan and the Mayor's Housing Supplementary Planning Guidance 2016 (SPG). The Council's appeal statement cites the London Plan 2016³. However, this was not in force at the time of their decision having been superseded by the London Plan 2021 (LP 2021) in March 2021. The LP 2021 does not contain policies referenced 3.3 or 3.14 and I have not been specifically referred to any others in that document. As such, I find no further conflict with the development plan on this basis.
15. The SPG⁴ states it provides guidance on the implementation of housing policies in the 2015 London Plan. I am not directed to any specific element of the

² References PP/16/04639 32 Lansdowne Crescent; CL/13/06958 36 Lansdowne Crescent; CL/14/02345 38 Cathcart Road and a Certificate of Lawfulness in 2007 at 43 Kensington Park Gardens. Pages 32-34 Appellant's Grounds of Appeal & pages 13-15 Appellant's Final Comments.

³ Page 2

⁴ Paragraph 0.1.1

document by the Council. Whilst I have had general regard to its content, given its age and status it carries limited weight and consequently, has had little bearing on my determination of this main issue.

Listed building and conservation area

Significance and special interest

16. The listed building comprises a series of four storey plus basement terraced townhouses built in the mid-19th century by H Wyatt. Together with nos 19-28 (also Grade II listed) they are arranged in a crescent. Most houses are bow fronted but they are flanked at each end by paired houses with flat facades. The two window width stucco frontages feature elaborate ornamentation and detailing, including cornicing, Ionic porches, bracketed cills, pediments, consoles, iron balcony and area railings. The terrace backs onto a curving communal garden.
17. The significance and special interest of the listed building is derived in large part from the architectural coherence and execution of its classically ordered and impressive frontage. By extension, significance and interest comes from the contribution the listed building makes to the wider townscape as part of a concentric layout of crescents with communal gardens. Some historic interest arises from how the building reflects the speculative development of the Ladbroke estates primarily during the 19th century.
18. Although individual houses have undergone alterations and adaptations, particularly to the roof, rear elevations and internally, the surviving historic fabric, legibility of the original plan form and hierarchy of internal spaces are components that contribute towards the overall historic integrity of the building. Hence, where present, these components reinforce the significance of the building.
19. The special interest and significance of the CA is derived primarily from the presence of the elaborately detailed stucco terraces and villas. The distinctive aesthetic appearance and layout of these often feature communal gardens set behind the houses. The CA reflects a period of speculative development by a number of architects during the early to mid-19th century. As such, the listed building and Lansdowne Crescent make an important positive contribution to the character and appearance of the CA as a whole.
20. The appeal property was formerly an end of terrace. Together with no.30 it forms one of the flat fronted balanced pairs to the curving terraced segment. Externally, no.29 adheres to the distinctive classical typology described, with additional quoin detailing to denote the end of the series of townhouses. The rear elevation, although of plainer brick appearance, features mostly original window openings and a closet wing that face onto verdant communal gardens. Therefore, no.29 forms an integral part of the overall composition of the listed building.
21. Internally, although originally a single dwelling, no.29 has been subdivided for some considerable time and presently comprises three residential units. The physical adaptations over time have introduced associated non-original partitions, bathrooms, kitchens, ceilings and servicing that have diluted the original plan form, room proportions and historic detailing. Nevertheless, I observed at my site visit that the original main staircase and balustrade were

largely intact. Furthermore, some original architectural features and detailing were evident in some rooms including skirting, internal doors, cornicing and fire places. These make a limited positive contribution to the overall architectural significance and historic interest of the building.

The proposals

22. The appellant describes the proposals as a programme of refurbishment, restoration, extension and repair to restore no.29 to use as a single dwelling house. The proposals for both appeals include a glazed extension to the rear elevation at lower ground and ground floor level which I observed had already been carried out. Moreover, it is proposed to replace the existing roof and dormers with a mansard roof extension.
23. In addition, appeal B is concerned with various internal works. In summary these include works to remove windows and drop the existing window openings at lower and ground floor levels between rooms at the rear and the proposed rear extension. (These aspects had already been undertaken at the time of my visit). The removal of non-original partitions, kitchen and bathroom fittings and internal staircasing across the ground, first and second floors. The reinstatement of an internal doorway and fireplace on the first floor, wall mounted lighting and laying solid timber flooring over original floorboards.

The effect of the proposals

24. It is material to my determination that some of the proposals were previously approved by the Council under separate applications. Namely, a similar rear extension was approved under references PP/19/02198 and LB/19/02200 dated 31 May 2019. This was consistent with my observations that a rear extension has been implemented. In addition, the mansard roof was previously approved under references PP/19/02104 and LB/19/02105 dated 30 May 2019.
25. The Council do not raise objections to these elements of the proposal in their appeal statement. Having now accepted that the existing spiral staircase was also authorised, the Council's principal concern⁵ is that the proposals would not deliver any significant heritage benefits that would justify a departure from housing planning policies. However, this relates to the first main issue rather than directly assessing the effect of the proposals on the special interest and significance of the building.
26. They go on to express concerns⁶ regarding the large opening on the first floor (referred to as the spine wall), the expansive room that would be created at second floor level and the level of detail provided. In relation to the latter point, the 'Planning Design Heritage Statement' provided describes the proposals and can be read with the existing and proposed drawings submitted. The 'strip-out' drawings are annotated to show where fabric would be removed and/or reinstated. On that basis, I am satisfied that in combination with my observations on site, there is sufficient information to make a reasonably informed decision in relation to the appeal proposals.
27. The proposals would remove non-original fabric that presently obscures the original plan form. For example, the removal of the partition at ground floor level would restore the entrance hallway closer to the original plan form.

⁵ Pages 5-6 Council's appeal statement

⁶ Pages 6-7 Council's appeal statement

Accordingly, although not necessarily reverting back to the exact 1860's layout, the principal room proportions and uses would more closely resemble the original intended layout. Furthermore, given the extent of existing modern partitioning at second floor level, I am not persuaded that any harm to the building's significance would result from the creation of the proposed master bedroom as is asserted by the Council.

28. Instead, the balance of evidence before me, which refers to neighbouring houses⁷, points to full width rooms at second floor probably comprising an original characteristic of the houses. Likewise, it indicates that a wide opening at first floor level was defined by plaster brackets. Therefore, these aspects would align with policy CL4(d) of the LP which states that opportunities to remove internal features that harm the architectural or historic significance of the asset, commensurate with the extent of the proposed development, should be taken. Indeed, the Council acknowledge⁸ that the conversion of the building to a single residential unit would bring the optimum viable use of the listed property in heritage terms.
29. The reinstatement of original internal doorway and a fireplace on the first floor would also be consistent with policy CL4(d) of the LP which encourages the reinstatement of internal features of special architectural or historic significance and would have a small beneficial effect.
30. Bearing in mind the considerable adaptation and modernisation that has occurred within the interior of no.29 to wall and flooring finishes, the installation of wall mounted lighting and laying of solid timber flooring over original floorboards would not be harmful to the architectural or historic value of the listed building that I have identified. Instead, in this context, these aspects of the proposals would have a neutral impact.
31. The angle of the proposed mansard roof would be sympathetic to the architecture of the terrace and the front dormer windows would suitably align with fenestration at lower elevations. Furthermore, the proportions used for the windows would respect the elevational hierarchy. In this respect, the proposals would be similar in appearance to that seen at no.30 and so would reinforce the balanced appearance of the flanking pair within the listed building which would be a marginal enhancement.
32. The lightweight glazed rear extension is a modestly proportioned sympathetic addition. Its positioning is visually recessive at the base of the rear elevation and set back from the closet wing. Its form and materials clearly read as a modern addition, allowing the historic evolution of the building to be understood. Moreover, it is broadly similar in approach to modern rear extensions evident at neighbouring properties.
33. However, to facilitate access to the proposed garden room and dining room within the rear extension, the proposals have resulted in the removal of some historic fabric at lower ground and ground floor levels. Notwithstanding that these are proposals that the evidence indicates the Council have previously found to be acceptable, I find that the removal of the windows and provision of larger openings in the existing rear elevation have caused limited harm to the

⁷ Including floor plans and photographs of 30, 31, 32, 33 Lansdowne Crescent, Appellant's Final Comments

⁸ Paragraphs 6.7, Council's delegated report

significance of the listed building. I therefore find that in this respect the works would run counter to the expectations of section 16(2) of the Act.

34. Hence, less than substantial harm to the listed building has resulted from these specific aspects of the appeal schemes. Consequently, this is a matter I shall need to consider as part of a heritage balancing exercise.
35. The internal alterations described would not impact on the special interest of the CA as they would be concealed within the building. Moreover, the external alterations outlined above would not affect the uniformity of the principal elevation nor undermine the important positive contribution of no.29 to the wider terrace and townscape. Consequently, I find the proposals would have a neutral impact that would preserve the character and appearance of the CA. Therefore, its significance as a designated heritage asset would not be harmed and accordingly, I find there would be no conflict with section 72(1) of the Act.

Heritage balance

36. In respect of the less than substantial harm to the listed building I have identified, paragraph 202 of the Framework requires this to be weighed against the public benefits of the proposals, including where appropriate securing its optimum viable use. Paragraph 199 of the Framework confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
37. The proposals would represent increased investment into the fabric of the listed building and would be likely to generate some economic benefit during construction. Furthermore, as already outlined, some elements of the proposals would enhance the significance of the listed building. In respect of both appeals the use of the property as a single dwelling would better reflect the original layout and use of the property, thereby better revealing the plan-form and floor hierarchy at no.29. This would be reinforced by improvements to the detailing of internal spaces arising from some of the works in appeal B. Overall and in both cases, I judge that the public benefits arising from these factors would be sufficient to outweigh the less than substantial harm to the significance of the listed building.
38. Accordingly, on balance, I find that the proposals as a whole would result in a small enhancement to the special interest and significance of the listed building. Consequently, taken overall, the proposals would align with the expectations arising from the duties in the Act and policy on the historic environment contained in the Framework. Furthermore, as the proposals would preserve the character and appearance of the CA and enhance the significance of the listed building, they would be consistent with the requirements of policies CL3 and CL4 of the LP in those respects.
39. In respect of appeal A, the Council have also cited conflict with policies CL1, CL2, CL6, CL8, CL9 and CL11 of the LP in their first refusal reason on the decision notice. In broad terms these policies emphasise the importance of good design and that modifications to buildings should be suited to their context and character. Policy CL11 relates specifically to the protection of views that contribute to the character and appearance of an area. Given my findings above, it follows that I have not found conflict with these policies in relation to this main issue.

Other matters

40. The appellant is critical of the time the Council took to issue their decisions and considers their approach to be inconsistent and based on inaccuracies. However, these are not matters that lie within the scope of my determinations which relate to the substantive merits of the respective appeals. Moreover, the appeal forms confirm that no separate costs applications have been advanced.

Planning balance

41. In relation to appeal A, planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. I found harm would arise owing to the conflict with housing policies in the LP, yet also considered that the proposals for a single dwelling unit would reinforce the significance of the listed building which derives some support from historic environment policies in the LP. On the face of it, the findings seem contradictory.
42. However, given the breadth of issues covered by a development plan, policies can sometimes pull in opposite directions. Nevertheless, I have found that the proposal would conflict with a policy to resist amalgamations that has important underlying objectives to provide sufficient and suitable housing. Therefore, the proposal in appeal A would conflict with the development plan when read as a whole.
43. The question then becomes whether this conflict is outweighed by other benefits of the proposal. My finding on the second main issue is relevant in that respect. Nevertheless, the improvements that I found would enhance the significance of the listed building would be of a minor nature. Additionally, they predominantly concern the interior of one house within the listed building which makes a limited contribution to the significance of the listed building overall.
44. Hence, the extent of benefits to the heritage asset would be small. Even attributing them great weight, they would not be sufficient to outweigh the harm arising from the conflict with the policies in the development plan which seek to address the overwhelming need for homes. As such, it would not justify my determining appeal A other than in accordance with the development plan. It follows appeal A should be dismissed.
45. In relation to appeal B, applications for listed building consent are not required to be assessed against the development plan in the same way as planning applications. Moreover, given my finding in relation to the main issue for this appeal, there is no reason to resist consent for the works.
46. I acknowledge that such an outcome may initially appear paradoxical, but it arises from the differing scope and nature of issues under consideration for the respective appeals.

Conditions in relation to Appeal B

47. I have considered the 6 conditions suggested by the Council in relation to appeal B. In addition to the standard time-limit condition, I have included conditions requiring the works to match retained fabric and any partitions to be of lightweight construction. These are imposed to ensure the preservation of the listed building. To provide certainty and to preserve the special interest of

the listed building, I have included a condition requiring further details of internal joinery and hard flooring to be agreed.

48. However, it is unnecessary to require the proposal to comply with the approved plans by condition as this is inherent in the decision wording. Similarly, it is unnecessary to confirm by condition that the works should retain existing fabric unless otherwise approved, as the consent does not go beyond the approved details.

Conclusions

49. For the reasons given above I conclude that appeal A should be dismissed but that appeal B should succeed.

Helen O'Connor

Inspector

Schedule of conditions for Appeal B

- 2) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 3) All new works and works of making good to the retained fabric, whether internal or external, shall be finished to match the adjacent work with regard to the methods used and to colour, material, texture, and profile.
- 4) Notwithstanding the details on the approved drawings/documents, detailed drawings or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun, and the works shall not be carried out other than in accordance with the details so approved and shall thereafter be so maintained:
 - (a) All new internal joinery, including doors, architraves and skirtings, at a scale of 1:10, including a section.
 - (b) All new hard flooring, including a section showing relationship to retained skirtings.
- 5) All partitions hereby granted consent shall be of lightweight construction, easily removable, and be so maintained.