



Appeal Decisions

Site visit made on 11 October 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2024

Appeal A Ref: APP/K5600/W/23/3316057

68 Onslow Gardens, Kensington and Chelsea, London SW7 3QB

- 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 Fred Cassis against the decision of Royal Borough of Kensington and Chelsea.
- The application Ref PP/22/06024, dated 5 October 2022, was refused by notice dated 16 December 2022.
- The development proposed is described as: 'alterations and refurbishment to interior only, and proposed amalgamation of Ground/First Floor duplex and Second Floor flat'.

Appeal B Ref: APP/K5600/Y/23/3316056

68 Onslow Gardens, Kensington and Chelsea, London SW7 3QB

- 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 Fred Cassis against the decision of Royal Borough of Kensington and Chelsea.
- The application Ref LB/22/06025, dated 5 October 2022, was refused by notice dated 16 December 2022.
- The works proposed are described as: 'alterations and refurbishment to interior only, and proposed amalgamation of Ground/First Floor duplex and Second Floor flat'.

Decisions

1. *Appeal A:* The appeal is allowed and planning permission is granted for alterations and refurbishment to interior only, and proposed amalgamation of Ground/First Floor duplex and Second Floor flat at 68 Onslow Gardens, Kensington and Chelsea, London SW7 3QB in accordance with the terms of the application, Ref PP/22/06024, dated 5 October 2022, subject to the conditions set out in the schedule to this decision below.
2. *Appeal B:* The appeal is allowed and listed building consent is granted for alterations and refurbishment to interior only, and proposed amalgamation of Ground/First Floor duplex and Second Floor flat at 68 Onslow Gardens, Kensington and Chelsea, London SW7 3QB in accordance with the terms of the application Ref LB/22/06025, dated 5 October 2022 and the plans submitted with it subject to the conditions set out in the schedule to this decision below.

Preliminary Matters

3. The appeal property forms part of a Grade II listed building¹, referred to on the National Heritage List for England as: '50-78 Onslow Gardens SW7'. It also lies within the Thurloe Estate and Smith's Charity Conservation Area (the CA). I

¹ List Entry Number: 1066611.

have therefore had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

4. Whilst the Council's decision notice in relation to Appeal A refers to the effect on housing supply, given the statutory duty above and the Council's reasons for refusal in relation to Appeal B, I have considered the second main issue below in relation to both appeals.
5. The CA is a predominantly residential area typically comprising large, terraced houses dating from the Georgian and Victorian periods. The uniformity across individual terraces, and the use of similar materials and architectural styles across the CA provides a level of coherence that contributes positively to the character and appearance, and thus the significance of the heritage asset. Mindful of the statutory duty above, due to the internal nature of the proposals and the lack of any observable change to the exterior of the building, I am satisfied that the proposal would preserve the CA's character and appearance as a whole. I note the Council concluded similarly.
6. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning, separating out the issues where necessary.
7. I have taken into account the revised National Planning Policy Framework (the Framework) as published on 19 December 2023. Any reference to the Framework below is consequently a reference to this latest revised version.

Main Issues

8. The main issues are:
 - the effect of the proposal on housing supply (Appeal A); and
 - whether the proposal would preserve the Grade II listed building, 50-78 Onslow Gardens SW7, or any features of special architectural or historic interest which it possesses (Appeals and B).

Reasons

Housing Supply

9. The appeal site comprises a ground and first-floor duplex and the separately accessed second-floor flat above. The applications propose their amalgamation to form a single dwelling with a new staircase installed to link the first and second floors.
10. Policy CH1 of the Royal Borough of Kensington and Chelsea Local Plan (2019) (the LP) refers to boosting the supply of homes in the Borough, and at a) seeks to meet and exceed the London Plan housing target of 733 net additional dwellings a year. CH1 b) sets out that the loss of residential units through amalgamations of existing or new homes will be resisted, unless the amalgamation would result in the net loss of one unit only, and the total floorspace of the new dwelling created will be less than or equal to 170 square metres gross internal area (GIA). CH1 c) requires that such developments are subject to a s.106 agreement to ensure the resultant units are not further amalgamated in the future.

11. This policy is set against the background of housing delivery figures that are low, with only 43 per cent of homes completed against the Council's housing targets over the last three years. I note that 25 homes have been lost through amalgamation since the adoption of Policy CH1, although it is unclear if all of these situations complied with the floor area requirement. Furthermore, whilst the Council acknowledges that it carries very limited weight, I have been directed to a policy in an emerging Local Plan, Policy HO1, which sets out that the Council will '*protect existing market residential homes and floorspace across the Borough including through by not allowing the amalgamation of existing self-contained homes.*' I accept that this reflects the trajectory in respect of resisting the loss of homes across the Borough.
12. Whilst the proposal would result in the net loss of one unit only, it is set out that the GIA of the resulting single dwelling would be 318.8 square metres, significantly in excess of the 170 square metres limit. In that regard, it is common ground that the proposal does not comply with the area requirement of CH1 b). No s.106 agreement has been supplied to meet the requirement of CH1 c). However, this does not form part of the Council's reasons for refusal and its absence is not referenced in either party's appeal statement. Nonetheless, with reference to CH1 c), a s.106 restricting future amalgamations is needed to make the development acceptable in planning terms and its absence represents a conflict with that aspect of the policy.
13. On this basis, the proposal would count against the delivery of housing targets and would diminish the ability of the Council to boost the supply of homes in the Borough. I therefore conclude that the proposal would have a harmful effect on housing supply, contrary to Policy CH1 of the LP.

Listed Building

Special Interest and Significance

14. 50-78 Onslow Gardens is a mid-nineteenth century terrace comprising of gault brick with rusticated stucco to the ground and basement floors. The external detailing including the fenestration, regular pattern of Doric porticos to the ground floor, stuccoed balustrade to the first-floor and corncicing between each subsequent floor provide for a consistent and well-preserved façade that contributes highly to the special interest and significance of the listed building.
15. The duplex and second-floor flat previously formed part of the same mid-terraced four-storey townhouse, 68 Onslow Gardens, comprising part of the Grade II listed terrace. The house was converted into a guesthouse and, later, flats, in the latter part of the twentieth century. The interior of the appeal building has therefore been compromised through the subdivision into flats with some historic features, notably the staircase between the first and second-floors, having been lost. A lift shaft was inserted across the floors of No 68, with the lift itself being accessed from the adjoining 70 Onslow Gardens, next-door.
16. Whilst elements of the historic plan form are evident to the ground and first-floor, with some surviving historic architectural features present here, it has been eroded through subdivision and removal of walls within the second-floor flat. Special interest and significance therefore also arise from the surviving historic fabric and the legibility of the building's plan form, which largely still reflects a hierarchy of function and uses of its internal spaces.

Proposals and Effects

17. The appeal proposal seeks to amalgamate the lower three floors of the original house which are currently accessed separately, with the second-floor flat requiring access from a corridor and staircase located within No 70.
18. As part of the proposals, it is proposed to remove the internal glazed door set and fanlight that form an inner doorway within the entrance hall. The ceiling above is modern, containing numerous spotlights. It is common ground between the parties that the doors are also recent modern additions.
19. Moreover, the appellant's heritage and appeal statements provide convincing evidence that the arch is also not a historic feature. The historic ceiling has been removed within the entrance hall at No 68 but remains at No 70. There is no arch present at No 70 or any evidence here of a pre-existing arch or similar feature. Furthermore, the appellant has provided extracts of the *Survey of London (Volume 41 Fig 29)* showing the Onslow Gardens house type. This shows no arch or inner doorway within the entrance hall. Taking this into account alongside my impressions on the site visit, I am therefore not convinced that the arch is an original feature nor a historic feature of interest. Its removal alongside the pair of doors would therefore preserve the building's special interest and not harm its significance and, moreover, the opening out of this space would constitute an enhancement.
20. Also on the ground floor, off the entrance hall, is an existing doorway into the existing kitchen and former front reception room that has been blocked and fixed shut. It is proposed to re-open the door. It is common ground between the parties that this is a historic opening. The re-opening of the door would help to reinstate the historic plan and circulation patterns at ground floor, helping to better reveal the special interest and significance of the building.
21. The proposal does not seek to block up the existing door into the front reception room which the Council contend is a non-original doorway, although this is disputed by the appellant. In that regard the appellant has argued that the extract from the *Survey of London*, referred to above, shows two openings into the front reception room. Nevertheless, even if it were not part of the original floor plan, any effects relating to the special interest arising from its presence already exist and therefore cannot result as part of the appeal scheme, which proposes no alteration to that door opening.
22. It is proposed to remove the kitchen from the front reception room and strip out the partition and sliding doors that currently divide this space in order to open up the front reception room. The kitchen would be relocated to the adjacent smaller inner room, shown as a living room on the existing floor plan. The kitchen units would be located along the walls containing the lightwell window and the obscured chimney breast, the alcoves to either side of which would be opened up as part of the works.
23. The Council has argued that the installation of units across the chimney breast would '*be harmful and not supported*'. However, the chimney breast is not visible at present and would only be revealed as part of the works. Furthermore, the appellant has provided evidence that the relocation of the kitchen to this position was recently granted listed building consent² in

² Ref LB/21/0578.

September 2021. Given that that approval did not propose the reinstatement of the alcoves, the appeal scheme represents an enhancement compared to the 2021 approval, notwithstanding the benefit to the front reception room from its relocation to this position. This aspect of the proposal would therefore preserve the building's special interest and not harm its significance.

24. The appeal scheme proposes to relocate the ground floor W.C. to the part of the hall adjacent to the lightwell, an area shown as partitioned off from the main hallway on the *Survey of London* extract referred to above. A similar partition wall is proposed as part of the appeal scheme with a door installed to match the existing doors. The lightwell window here is rather plain and is asymmetrical, lacking the elegance of the fenestration in the principal rooms or that could be expected in a hallway leading to the principal reception room. This supports the evidence provided in the *Survey of London* extract. I am therefore satisfied that on the basis of what is before me, the relocation of the W.C. here would therefore preserve the building's special interest and not harm its significance, specifically in relation to the hall.
25. The Council has argued that no evidence has been supplied of the date of the partition under the stairs and further along the hallway. However, on the site visit I saw that these were modern in appearance and moreover, as argued by the appellant, the partitions under the staircase itself could not have existed prior to the conversion of the building to flats in the 1980s, as this would have been the position of the stone staircase leading to the lower ground floor. I am therefore satisfied that there is sufficient evidence to conclude that the removal of the partitions under the stairs and landing would therefore preserve the building's special interest and not harm its significance.
26. The existing fire surround within the main ground floor reception room is a contemporary lightweight structure that has been painted in a marble effect. The appellant's heritage statement includes a photograph of the same room at No 68, taken in 1891. This shows a fireplace that is concealed by a velvet cover but an Adam-style overmantle mirror is not obscured. The heritage statement also includes a photograph dating from the 1990s showing a historic marble fire surround present at No 66, that is reminiscent of the Adam-style detailing present in the 1891 photograph. It is proposed to replace the existing contemporary fire surround with a new Adam-style fireplace in white statuary marble. The proposed fireplace would enhance the architectural authenticity of this principal ground floor room and would thus represent an enhancement to the listed building.
27. The Council argues that there is insufficient evidence that the fire surround can be removed. The Council does not provide any more detail to support this assertion, however, this is certainly a relatively recent addition to the room, and I see no reason why, taking the appropriate care this could not be removed and replaced with a more historically appropriate fire surround.
28. The appellant has provided details of an antique marble fire surround that is proposed to be installed in the first-floor front room. It comprises of white statuary marble with inlaid sienna marble fluting and incorporates Adam-style motifs. There is no fireplace here at present and the alcoves to either side of the chimney breast would be re-instated as part of the proposed works. The heritage statement includes a photograph of a marble fire surround present at No 66, taken in the 1990s. The proposed fire surround would be broadly

reflective of that at No 66 surround in terms of colour, composition and style. I am therefore satisfied that the proposed installation would preserve the building's special interest and not harm its significance.

29. The Council objects to the installation of a bathroom within the front room on the first-floor due to the potential for visible services. However, the proposed services plan shows that this would utilise the existing waste pipe that drains from the current ensuite to the existing soil vent pipe to the front elevation of the building. As such there would be no change to the external face of the building and this aspect of the proposal would therefore preserve the building's special interest and not harm its significance.
30. The *Survey of London* plan referred to above, shows the original first-floor as a large predominantly open plan drawing room, accessed by two doors from the first-floor landing. The appellant's heritage statement includes photographs of the first-floor areas of Nos 66 and 44 Onslow Gardens, which retain this layout. The proposal seeks to re-instate the two historic door positions in line with those at No 44 and No 66. The new doors would match those elsewhere in the property, being more historically appropriate than the existing modern doors. This would represent a small enhancement in heritage terms.
31. The proposal would also effectively remove the first-floor hall and bathroom partition making the first-floor more open, albeit still compromised by the position of the lift shaft. Nonetheless, the proposed pair of pocket-doors between the ensuite and the nursery, and also to the dressing room, would also make the space appear more open.
32. Whilst pocket-doors are not a traditional feature of this building, they would constitute an obvious later addition, set within a timber partition. This would be reinforced by the partition cutting across the proposed replacement cornice in this space. No cornicing is proposed to the partition walls themselves, further clarifying their non-original status. For these reasons the proposed pocket-doors would therefore preserve the building's special interest and not harm its significance. Moreover, the plan form and circulation pattern of the proposed layout, including the re-instatement of lost door positions, would better reflect the original layout than the existing. In that regard this element of the proposal would represent an enhancement. Similarly, the re-installation of new window shutters that have been lost in the first-floor front room to match those that survive to the rear, would add to the historic integrity of this space and also constitute an enhancement.
33. Other than the insertion of the staircase into the space currently occupied by the kitchen, the second-floor would be subject to little alteration to the existing plan form. Nevertheless, the insertion of a discrete, locked jib door in place of the existing main entrance door from the corridor of No 70, would help to alleviate some of the visual harm to the plan form that has occurred from this non-original link with the neighbouring property. It is acknowledged that the existing second-floor layout is not representative of the historic plan form, including the presence of the hallway, however any harm to the plan form is already present and would not arise from the works and development proposed as part of the appeal scheme.
34. The ground and first-floors have relatively large numbers of modern spotlights, recessed within the ceilings. These are present in almost every room, including the entrance hall and principal reception room to the ground floor. This form of

lighting is of a modern character which does not reflect or complement the historic character of the rooms. The character and resulting ambience of the illumination arising from recessed spotlights contrasts starkly with that of the more traditional forms of lighting that would be historically appropriate within the appeal property. Moreover, recessed light fittings disrupt the smooth plastered finish of the ceilings, further diminishing the character of these historic spaces.

35. It is proposed to install two additional spotlights in the ceiling of the ground/first half landing currently occupied by the study, and which would become the utility. There is a recessed spotlight within the ceiling here at present. Three spotlights are proposed in the kitchen. There are already six spotlights in the ceiling in this room. The character of the lighting in these two rooms has already been compromised by the presence of the existing spotlights. Their ceilings have therefore already been subjected to intrusions. Moreover, the kitchen and utility comprise the more functional spaces of the dwelling, away from the principal rooms and circulation spaces and are thus less sensitive to change. I am therefore satisfied that, on balance, the additional spotlights proposed here would not lead to any further harm.
36. The addition of spotlights to lowered ceilings in the dressing room area, the partitions in the principal ensuite and the understairs cupboard would preserve the building's special interest and not harm its significance. This is due to their relatively discrete locations, and insertion within clearly modern fabric, with a high degree of physical and visual separation from the main rooms.
37. Overall, I have found that some elements of the scheme would preserve the special interest and significance of the building, a neutral finding, whilst others represent an enhancement. The proposal would reinstate the second-floor of the building, returning access between the first and second-floors within the same residential unit as existed originally. This, in itself, would comprise an enhancement to the special interest of the building. However, there are also other individual aspects of the proposal that would sustain and enhance the special interest and significance of the heritage asset that I have set out above. Additionally, the removal of recent cornicing and its replacement across the floors of the property, with cornicing that is reflective of the original, as evidenced by the research in the heritage statement, would also represent an enhancement.
38. I therefore conclude that, taken as a whole, the proposal would preserve the Grade II listed building, 50-78 Onslow Gardens SW7, and any features of special architectural or historic interest that it possesses. Consequently, I do not find any conflict with Sections 16(2) or 66(1) of the Act. The works and development would also conform with the Framework and Policy CL4 of the LP which together seek to conserve heritage assets in a manner appropriate to their significance.
39. As I have found no harm to heritage assets, the heritage balance required by the Framework, is not engaged.

Conditions

40. I have had regard to the conditions suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance, making such amendments as necessary to comply with

those documents. In addition to conditions requiring commencement with the standard statutory periods, I have attached a condition specifying the approved plans to Appeal A. This condition is not replicated in terms of Appeal B as progressing the works in accordance with the submitted plans is part of the formal decision above.

41. With regard to Appeal B, a condition requiring further details of the proposed floor finishes, fireplaces, and cornicing is necessary to preserve the special interest of the listed building. For the same reasons, a condition specifying the submission of further details of the staircase is also required. A condition requiring existing wall and ceiling plasterwork to be retained is, however, not necessary as these works do not form part of the applications. Details of the proposed doors and shutters have already been provided and therefore submission of further detail is not necessary. A condition relating to further details of partitions is also not necessary as there is sufficient detail supplied with the application.

Planning Balance and Conclusion

42. *Appeal A:* I am required to determine the appeal in accordance with the development plan, unless material considerations indicate otherwise, having regard to the requirements of section 38(6) of the Town and Country Planning Act 1990.
43. Whilst the proposal would result in the loss of one unit only, it would exceed the maximum floor area permitted to change under Policy CH1 b). It also does not include a s.106 agreement to restrict future amalgamations in accordance with CH1 c).
44. I accept that housing delivery is low, and I have had regard to the comments from local residents on this matter. However, the loss of a single unit would have only a slight effect on the housing delivery figures. Whilst the lack of a s.106 would not prevent a future application for further amalgamation coming forward, any such application would be considered on its own merits, having regard to the loss of housing, the relevant policy circumstances at the time and any benefits, where relevant.
45. As such, whilst the proposal would conflict with the development plan, insofar as it relates to amalgamations, the significant heritage benefits I have identified above, constitute a material consideration that, in this particular instance with regard to the particular circumstances of the proposal, warrant taking a decision other than in accordance with the development plan. In that regard, the adverse impact of the proposal on housing supply would not significantly and demonstrably outweigh the significant heritage benefits arising from the enhancement of the listed building that I have set out above.
46. For these reasons I conclude that the appeal should be allowed.
47. *Appeal B:* For the above reasons and having regard to all matters raised I conclude that the appeal should be allowed.

Paul Martinson

INSPECTOR

SCHEDULE OF CONDITIONS

APPEAL A:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 050; 301; 302; 303; 305; 331; 332; 333; 335; 341, 342; 343; 351; 352; 353; 361; 362; 363; 371; 372; 373; 381; 382, 383; 384; 385; 386; 387; 388; Door Schedule Rev A, Photographic Survey.

APPEAL B:

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The installation of each of the works listed at a) below shall not take place until detailed drawings at a scale of 1:10, including section drawings, or samples, where appropriate, of that aspect of the works to be installed have first been submitted to and approved in writing by the local planning authority:
 - a) Flooring, cornicing, and fireplaces to ground and first-floor.The works shall be carried out in accordance with the approved details.
- 3) The installation of the staircase shall not take place until detailed drawings, including sectional drawings at 1:10, and a method statement detailing its installation, including works to the existing staircase, have first been submitted to and approved in writing by the local planning authority. The installation of the staircase shall be carried out in accordance with the approved details.