



Appeal Decisions

Site visit made on 30 July 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal A Ref: APP/K5600/W/24/3343636

68 Flat F Cornwall Gardens, Kensington and Chelsea, London SW7 4BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant planning permission.
 - The appeal is made by Ms P Thorne against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/23/06724, dated 13 October 2023, was refused by notice dated 11 December 2023.
 - The development proposed is described as '*Replacement of existing mansard dormer windows with taller windows by lowering the cill for health and safety reasons as well as improved outlook and natural light to match the neighbours.*'
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Appeal B Ref: APP/K5600/Y/24/3343640

68 Flat F Cornwall Gardens, Kensington and Chelsea, London SW7 4BA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) against a refusal to grant listed building consent.
 - The appeal is made by Ms P Thorne against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref LB/23/06725, dated 13 October 2023, was refused by notice dated 11 December 2023.
 - The works proposed are described as '*Replacement of existing mansard dormer windows with taller windows by lowering the cill for health and safety reasons as well as improved outlook and natural light to match the neighbours.*'
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Decisions

Decision A – Planning permission

1. The appeal is allowed and planning permission is granted for the replacement of existing mansard dormer windows with taller windows by lowering the cill for health and safety reasons as well as improved outlook and natural light to match the neighbours, at 68 Flat F Cornwall Gardens, Kensington and Chelsea, London SW7 4BA in accordance with the terms of the application, Ref PP/23/06724, dated 13 October 2023, subject to the conditions set out in Appendix A.

Decision B – Listed building consent

2. The appeal is allowed and listed building consent is granted for the replacement of existing mansard dormer windows with taller windows by lowering the cill for health and safety reasons as well as improved outlook and natural light to match the neighbours, at 68 Flat F Cornwall Gardens, Kensington and Chelsea, London SW7 4BA in accordance with the terms of the application Ref LB/23/06725 dated 13 October 2023 subject to the conditions set out in Appendix B.

Preliminary Matters

3. This decision letter relates to Appeal A under s78 TCPA for planning permission, and Appeal B under s20 PLBCAA for listed building consent. Whilst both relate to different regulatory procedures, given the similarities in the issues and considerations I have dealt with both in this single document.
4. In July 2024, the Council adopted Local Plan 2024, which was indicated to be 'in place' of the Local Plan 2019, which the proposal was originally determined against. The Appellant and Council were both given an opportunity to provide any observations on this. I have proceeded on the basis that the 2024 Local Plan is the development plan for the purposes for determination of the appeal scheme.

Main Issue

5. The main issue for both appeals is the effect of the proposed works on the Grade II listed building, and whether or not it would preserve or enhance the character or appearance of the Cornwall Gardens Conservation Area.

Reasons

6. The appeal building, No. 68 Cornwall Gardens, is a Grade II listed building comprising a mid-terrace five storey building located within the Cornwall Gardens Conservation Area. Flat F is located over three floors as shown on the submitted drawings. Also shown are three small dormer windows set within the front mansard roof slope. A further pair of dormer windows are shown in the rear mansard roof. The proposal seeks to enlarge all three front dormers in order to 'match' the neighbouring building's and enlarge one of the rear dormers (on the right hand side), as shown on drawing 2315 PL06. This would enable occupiers to safely clean the gutters, and provide better outlook and light for them.
7. The significance of this part of the Cornwall Conservation Area appears to derive from the generally unified appearance of buildings along the southern edge of Cornwall Gardens. Indeed, the visual uniformity is achieved along the terrace; this is through features such as the use of raised mouldings around windows, pediments above the openings on the first and second floors, and a deep cornice with brackets between the third and fourth floors, together with a further parapet between the fourth floor and attic.
8. Where this visual uniformity begins to change is within the roof forms. I saw during my site inspection that there are various examples of mansard and other roof forms visible from street level. It is also possible to see this variety on Page 4 of the Appellant's *Planning Appeal Statement*. In particular, there is a mixture of window sizes evident within the street scape. This is likely a result of the fifth or attic storey being an addition to the neighbouring buildings. That is likely the case with the appeal site having had permission for such in the late 1980s, as evidenced on page 5 of the Appellant's *Planning Appeal Statement*. In such context, the significance of the listed building derives from its historic features found at the floors below the attic; which appear to comprise the historic heart of the listed building.
9. The proposal would introduce four larger dormers – three to the front elevation and one to the rear elevation. Whilst I note the Council's concern that they consider it would result in an over-dominant dormers, it is clear looking at both

the appeal site and the adjoining building (identified as No 69 in the Planning Appeal Statement) for which the proposed windows would match, that the proposed windows would not dominate the mansard roof slope. Instead they would continue to contribute to the evolutionary adaptation of the listed building in order to meet the needs of occupiers. Moreover, this would be achieved in a manner altering a 'newer' addition to the listed building in the form of the late 1980s/early 90s mansard roof.

10. Whilst the proposal would result in changes to the roof dormers of a Grade II listed building, the historic fabric and appearance of the building as whole would remain unchanged. Therefore I do not find that the proposal would fail to preserve the special interest or significance of the listed building. In doing so, and for similar reasons, I find that the proposal would preserve the character of the conservation area, where the mansard roof form with dormers is prevalent. In doing so, I find that the proposal would not infringe the requirements of the duties set out in s16(2) and s66(1) of the PLBCAA.
11. Accordingly, the proposal would accord with Policies CD1, CD2, CD3, CD4, CD8, CD9, CD11, and CD14 of the Local Plan 2024, which, amongst other aims, indicate that the Council will require development to protect the heritage significance of listed buildings. For similar reasons, the proposal would comply with the heritage policies of the *National Planning Policy Framework*.

Conditions

12. In their statement of case, the Council have suggested conditions for both appeals. I have considered these in light of Paragraph 56 of the *National Planning Policy Framework* and the information in the national *Planning Practice Guidance* in terms of the use of planning conditions. Some conditions – such as the construction code of practice – are pre-commencement conditions. The Appellant's written agreement was sought around 17 October 2024 under Section 100ZA of the TCPA. Following the passing of 10 days no written agreement was given. Therefore these conditions are imposed under s100ZA (2)(1)(b) in the absence of a substantive response.
13. In relation to both Appeals, conditions with regard to time limit for implementation and to be built in accordance with the submitted drawings and using matching materials for making good are necessary and reasonable in order to provide certainty and protect the character and appearance of the listed building.
14. A condition for Appeal A requiring a Site Construction Management Plan to be submitted is reasonable in order to minimise disruption to adjoining occupiers. This should be a pre-commencement condition in the interests of good planning and public amenity. Furthermore, a condition requiring the finish to be timber framed, white painted, double hung, sliding sashes is necessary in order to retain the visual appearance of the building.
15. Lastly, a condition imposed on the listed building consent requiring drawings at a scale of 1:20 for the dormers and any means of enclosure and or balustrading, is necessary and reasonable to ensure that the detailing is appropriate for a Grade II listed building and preserves its historic character.

Conclusion

16. The proposed works and development would accord with the adopted development plan and not result in harm to the listed building.
17. For the reasons given above, I conclude that both appeals should be allowed, subject to the relevant conditions set out in Appendices A and B.

C Parker

INSPECTOR

Appendix A - List of planning conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall not be carried out except in complete accordance with the details shown on submitted plans 01; 02; PL05; PL06 and shall be maintained.
- 3) All work and work of making good shall be finished to match the existing exterior of the building(s) in respect of materials, colour, texture, profile and, in the case of brickwork, facebond and pointing, and shall be so maintained.
- 4) No development shall commence until:
 - i. An Appendix A Checklist and Site Construction Management Plan (SCMP) for the development have both been submitted to, and approved in writing, by the local planning authority's Construction Management Team, and then;
 - ii. Copies of the approved Checklist and Plan, and their written approval, have been submitted to the local planning authority to be placed on the property record.

The development shall be carried out in accordance with the Appendix A Checklist and SCMP so approved, or in accordance with a subsequent Checklist or SCMP as may be approved under this condition.
- 5) The windows hereby permitted shall be timber framed, white painted, double hung, sliding sashes, and so maintained.

Appendix B – List of Listed building consent conditions

1. The works hereby granted shall be begun before the expiration of three years from the date of this consent.
2. The works forming the subject of this consent shall not be carried out except in complete accordance with the details shown on submitted plans 01; 02; PL05; PL06 and shall be so maintained.
3. 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) Elevation and section drawings at a scale of 1:20 of new dormers and associated sash windows.
 - (b) Details of means of enclosure/balustrading, including positioning, to new dormer window openings at a scale of 1:20.
4. 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.
5. All existing fabric including existing wall and ceiling plasterwork shall be retained, unless notated otherwise on the drawings approved under this consent.

***** END OF CONDITIONS *****