



Appeal Decisions

Site visit made on 9 August 2025

by Grahame J Kean BA (Hons), Solicitor (HRA), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal A Ref: APP/K5600/C/23/3334340

Appeal B Ref: APP/K5600/C/23/3334341

Appeal C Ref: APP/K5600/C/23/3334342

Appeal D Ref: APP/K5600/C/23/3334343

18 Wetherby Gardens, LONDON, SW5 0JP

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
 - Appeal A is made by Mr Filippo Lanza of 18 Wetherby Gardens Ltd.
 - Appeal B is made by Mr Michael Cumming.
 - Appeal C is made by Mr Patrick Schegg.
 - Appeal D is made by Ms Paola Biasi.
 - The notice was issued on 24 October 2023.
 - The breach of planning control as alleged in the notice is: without planning permission the installation of a replacement front door.
 - The requirements of the notice are:
 - i) Remove the single leaf replacement front door and sandblasted glass to the door and fanlight, as shown on drawing PROP/DR/01 submitted under planning application ref: PP/22/06735 attached as Appendix A;
 - ii) Reinstate the double leaf timber front door and clear glass to the door and fanlight as shown on drawing EXT/DR/01 submitted under planning application ref: PP/22/06735 attached as Appendix B;
 - iii) Remove from the land all resulting debris.
 - The period for compliance with the requirements is: within three calendar months from the date on which this notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeals B,C and D are proceeding on the grounds set out in section 174(2) (c) (f) and (g).
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Decision

1. It is directed that the enforcement notice is varied by:

➤ adding the following wording after “debris”:

▪ “OR

modify the as-built design to provide the visual appearance of a double door incorporating door millings (mouldings/beading) and door furniture, retaining the width of the pre-existing opening, retaining frosted glass within the doors and sidelights, the door to be painted to a high-gloss black finish using steel internally and EDM externally as shown on Drawing No PR/DET/03F annexed to this notice.”

➤ deleting “three” and substituting “four” within the period for compliance.

➤ Drawing PR/DET/03F shall be annexed the notice as shown in this Decision.

2. Subject to the variations, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (c)

3. An appeal on ground (c) is that the matters alleged in the notice to have occurred, if they have occurred, do not constitute a breach of planning control.
4. The appeals are brought by the company that owns 18 Wetherby Gardens and the leaseholders of the three flats in the building. The case for the appellants is that given the “small-scale” change to the host building, the replacement front door does not materially alter the appearance of the building and therefore the works are not development requiring planning permission.
5. The categories of work that do not amount to ‘development’ are set out in s55(2) of the 1990 Act. They include building operations that do not materially affect the external appearance of a building. “materially affect” has no statutory definition but as the government’s Planning Practice Guidance (PPG) at Paragraph: 001 Reference ID: 13-001-20140306 advises, the term is *“linked to the significance of the change which is made to a building’s external appearance”*.
6. “Building” is defined at s336 as any structure or erection, and any part of a building...” The agent asserts that s55(2) limits the phrase “materially affect” to the building itself and does not involve assessment of the impact of a *“change on a group of buildings such as a row of terraces.”* This is not necessarily correct.
7. Case law¹ has established that for works to “materially affect” external appearance, the changes must be visible from a number of vantage points and material to the appearance of the building as a whole. However, whilst it is established that the focus is on the external appearance of the building as a whole (and without taking an overly forensic approach) it was clarified in a later case² that the effect on the external appearance of the building, can include part of the building, logical when one can *“imagine that in a large building, with different facades within public view, new fenestration might have a material effect on part of the building but not the whole.”*³ Given the statutory definition in s336 it was held that a decision maker can consider the impact on that part alone.
8. There is a suggestion in that later case that focus on a block of terraced houses rather than the individual house, may be more justifiable *“given that it was a short terrace”*⁴, but that statement appears to be obiter, ie not part of the critical reasoning in that case. In any case I see no good reason not to treat the appeal property 18 Wetherby Gardens, as the “building” for these purposes.
9. A previous appeal decision Ref APP/R3650/W/22/3299107 is cited where it was found that since windows are characteristic of a residential use, inserting an extra window would not materially alter the appearance of the building. The agent in the current appeal has conscientiously and clearly highlighted the differences in that

¹ *Burroughs Day v Bristol City Council* [1996] 1 PLR 78.

² *Haringey LBC v SSCLG & Muir* [2019] EWHC 3000 (Admin)

³ Ibid per Lieven J at paragraph 28.

⁴ Ibid per Lieven J at paragraph 26.

decision, whilst emphasising that as a front door is characteristic of most buildings, including the appeal site, a replacement in the same opening with “very minor” deviations to the detailing of the door, maintains the external appearance and character of the building as a residential building.

10. The agent further states that the new front door is set in the same opening as the pre-existing front door which retains the focal point of entry to the building and functions in the same way as did the previous door, being no more visible on the front elevation of the building and retaining the existing proportions of two sidelights, one fanlight and the six-panel design. The site is still recognisable as a residential building and the character of that use is said not to have altered.
11. The appellants’ statement is factually correct but potentially misleading. Although “*set in the same opening*” I saw that the new door and opening is significantly different from the pre-existing situation in which there were double leaf doors. Indeed, the size of the door opening is noticeably reduced to accommodate the new single leaf door which is narrower in width. The surrounds and glazing patterns are different from the previous doors. The alterations have had a materially significant effect on the external appearance of the façade of the appeal property, 18 Wetherby Gardens, especially its ground floor front elevation.
12. The works amount to development as defined in s55(2) of the 1990 Act, thus requiring planning permission. The appeal on this ground does not succeed.

Ground (a)

13. The appeal site is in the Courtfield Conservation Area (CCA). It is neither a listed building nor subject to an “Article 4 Direction” that would affect the unauthorised development. The main issue is the effect of the development on the character and appearance of the CCA, including the host dwelling, the terrace and wider street scene. I have a statutory duty to pay special attention to the desirability of preserving the character or appearance of a conservation area when considering the grant of planning permission for development within it.
14. The CCA appraisal of 2015 describes the area as an attractive residential enclave with a restrained, elegant air due to its Victorian formal terraces, mature gardens and wide roads. Architecture ranges from 2-3 storey terrace houses and semi-detached properties to larger terraced houses and mansion blocks of 6-7 storeys. The earliest buildings are of Italianate style including those around Wetherby Gardens. As I saw decorative finishes help to unify each terrace or group. Mature trees and planted garden squares soften the architecture and create a picturesque streetscape. The area is a fine example of well-preserved late Victorian architecture in a comfortable residential atmosphere.
15. Nos 12-19a in which the property lies, date from 1880-1890, among the last terraces to be built. The group is “*more distinct with its steep pitched slate roofs at each end and the use of highly decorative pedimented attic gables and bottle balustrades to the roof parapets, first floor balconies and above bay windows.*”
16. The appraisal notes the varied doors ranging from standard four-panelled doors in Collingham Place and six-panelled doors and two-leaf doors in Wetherby Gardens to highly decorative doors elsewhere, mostly “*positioned within decorative recessed porches or porticos providing emphasis to the dwellings main entrance.*”

17. The main motive for replacing the front door to a single leaf door is due to security breaches at the property. The proportions of the replacement door are somewhat similar to the existing but clearly there is a loss of detailing that would indicate a double leaf door and, whilst the sidelights, fanlight and millings of the six panels are retained, I disagree that the rhythm of the development is very similar to the original proportions. For example, the double leaf door at No 17 forms a paired entrance with No 18 and is within one of the terraces noted in the CCA appraisal as built after the 1870s with mirrored plans and paired entrances and porticos.
18. Thus, whilst there are still four glass panes to the upper sections of the door, sidelights, and the horizontal emphasis of the fanlight above the door is noted, the pleasing symmetry of the double leaf door is entirely lost and the wider frames for the opening, single brass kickplate, and rectangular style of fenestration are all at odds with its companion. This produces a jarring effect on the appearance of the host property, its neighbour, and the neighbouring properties on this side of Wetherby Gardens where several examples of original double leaf doors can be seen. Further along and on both sides of the street there are more mixed designs, that attempt with varying success to reflect the traditional form of the openings.
19. The single door design significantly diminishes its historic surroundings. Although a single feature of the host building and terrace, the two-leaf front door is a significantly positive characteristic of this terrace. The alterations have diminished the significance of the building within the terrace group especially the attractive uniformity of the double leaf doors and accompanying detailing that point up this period style of entrance. The appellants point to other, arguably more dominant, features of the building to which the eye is drawn, but losing the pre-existing door and opening design is to lose something of the whole appearance of the façade which in turn undermines the character and appearance of the CCA.
20. The front doors are set back under large projecting porticos. However, as one walks along the pavement the rather grand entrances invite inspection within, whereupon one is struck by the relatively unusual double leaf design of the front doors and their accoutrements. Or, as the CCA appraisal puts it, the porticos provide “*emphasis to the dwellings [sic] main entrance*”. Indeed, the whole ensemble is a significant and noticeable feature in this part of the conservation area and contributes to the attractiveness of the CCA as a whole. The door in situ is made from MDF, a timber product which, together with the sidelights and fanlight, have some resonance with the traditional design of its host and wider area. However, it is basically out of proportion, disrupts local character and appearance and fails significantly in my opinion to preserve or enhance the character and appearance of the CCA.
21. The letters supporting the appearance of the door now in situ, are noted. The appellant accepts that the existing front door was “*attractive within the context of the wider terrace due to its coherence within the group*” but states it was failing to keep the residents behind the door safe and ensure their wellbeing. I accept the alterations are motivated by a concern for security, but it was not essential to redesign the entrance door in this way. An alternative design could preserve or enhance the CCA whilst offering safety and security at the premises. This might have included for example, modifying any internal doors behind the front doors or installing another security door in the hallway.

22. Paragraph 215 of the National Planning Policy Framework (NPPF) advises that development leading to less than substantial harm to the significance of the heritage asset must be weighed against its public benefit (if any). There are benefits to the development, said to be both private and public, that include a deterrence to criminals operating in the area; a reduction in crime and fear of crime; and less burden being placed on police resources. Setting aside for the moment the fact that other schemes could provide equally similar benefits, those described are largely private benefits. There is a marginally positive effect for each property made more secure, but no compelling public benefit has been established that would overcome the harm to the significance of the CCA.
23. The key local plan policies are those set out in the Council's reasons for issuing the notice, namely Policies CL1, CL2, CL3, CL9 of the Royal Borough of Kensington and Chelsea Local Plan 2019 (LP), but not Policy CL11. Policy CL11 does not apply. It seeks to preserve or enhance views identified in conservation area appraisals. Whilst there is a short vista, referred to in the CCA appraisal, from Bina Gardens that takes in the appeal property, the entrance door is obscured from that identified view by street furniture and the portico entrance.
24. Nevertheless, the development fails to meet the aims of Policy CL1 to ensure development respects local context, character and appearance, taking opportunities to improve the quality and character of buildings, by failing to preserve the positive characteristics of the existing ground floor elevation of the property. It is also contrary to Policy CL2 in that although it attempts to design out crime, in destroying the double leaf door with accompanying detailing it fails to respond appropriately to the context of the site.
25. The modifications also fail to reinforce the character and integrity of the original building, producing design details not in character with it and impairing its architectural symmetry, and associated group of buildings, contrary to Policy CL9. The development is also contrary to LP Policy CL3 in that it fails to preserve and enhance where possible the character or appearance of the conservation area in which it is situated. The harm is contrary to the aims of Chapter 16 of the NPPF in failing to preserve or enhance the significance of the heritage asset (CCA) with no or no substantial public benefits accruing as a result of the development.

Conclusion on ground (a)

26. Therefore, I conclude that the deemed application for planning permission should be refused.

Ground (f)

27. An appeal on ground (f) is that the requirements of the notice are excessive and lesser steps would overcome the objections. It is essential to understand the purpose of the notice. Under s173(4) of the Act, its purpose is to: (a) remedy the breach of planning control that has occurred, or (b) to remedy any injury to amenity which has been caused by the breach.
28. Reading the enforcement notice as a whole it is clear on its face that its purpose is a hybrid one inasmuch as it seeks to remedy the injury to amenity and remedy the breach of planning control by requiring the removal of the unauthorised front door and restoration of the property to its prior condition.

29. An alternative scheme is articulated through the submission of Drawing No PR/DET/03F which would reduce the adverse impacts of the development in situ. A similar scheme was applied for but refused by the Council in 2023 on grounds that the loss of the double doors and replacement with a single door at the front of the building would not preserve the character and appearance of the building, the terrace group and the wider conservation area.
30. However, the modifications would not unacceptably undermine the appearance of its host whilst keeping the operational single panel within the opening. Alterations to the door millings and other detailing would provide the visual appearance of a double door. Importantly, the width of the pre-existing opening would remain. I agree that insistence on clear glass in the doors and sidelights is excessive, however the door should be painted to a high-gloss black finish to match its neighbour, and it may use steel internally and EDM externally.
31. The alternative scheme would in my view remove the unacceptably adverse effects on the significance of the CCA in views along the public realm. It would also significantly reduce the incongruous appearance of the ground floor front elevation of the property to a degree that - in this particular instance, and having regard to all the circumstances including the applicability the conservation related local plan policies, would preserve the character and appearance of the CCA.
32. Consequently, I shall allow the appeal on ground (f) and vary the notice to provide for this alternative. I will retain the original period for compliance which will operate in respect of either option, ie within this period, the appellants must have completed the alternative scheme or if not, they must by then have demolished and removed the unauthorised development in its entirety and reinstated the double leaf timber front door all as required in the notice.
33. The appeal on ground (f) succeeds to this extent.

Ground (g)

34. An appeal on ground (g) is that the period for complying with the notice is too short. A period of six months is requested to be substituted for the three months stipulated in the notice.
35. A bespoke door will be ready, I am told, some ten weeks from ordering it. The door can only be removed when the new door is ready to be installed. The property cannot be left unsecured but that means the removal and installation normally takes place on one day. A period of four months should provide enough flexibility in which to make the necessary arrangements to effect compliance. I will vary the compliance period accordingly. The appeal on ground (g) succeeds to this extent.

Conclusion

36. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the injury to amenity and the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeals on grounds (f) and (g) succeed to that extent.

Grahame Kean

INSPECTOR

Annex

Drawing PR/DET/03F to be annexed to the Enforcement Notice dated 24 October 2023.

