



Appeal Decisions

Site visit made on 3 December 2025

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2025

Appeal A Ref: APP/K5600/W/25/3369819

3 Bedford Gardens, London W8 7ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Peggy Lund against the decision of The Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/25/01471.
 - The development proposed is: Rear terrace and access from rear closet wing onto terrace.
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Appeal B Ref: APP/K5600/Y/25/3369815

3 Bedford Gardens, London W8 7ED

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) against a refusal to grant listed building consent.
 - The appeal is made by Ms Peggy Lund against the decision of The Royal Borough of Kensington and Chelsea.
 - The application Ref is LB/25/01472.
 - The works proposed are proposed is: Rear terrace and access from rear closet wing onto terrace.
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Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. These decisions address planning and listed building consent appeals for the same site and the same scheme. The remit of each regime is different, and the Main Issues set out below relate either to the planning appeal (Appeal A) or to both Appeal A and the listed building appeal (Appeal B). To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter. As the appeal property comprises a listed building and is situated within the Kensington Conservation Area (the CA), I shall have regard to the statutory duties that apply under Sections 16(2), 66(1), and 72(1) of the Act.
3. As part of the appellant's appeal stage submissions, a Planning Fire Safety Statement (dated 23 July 2025) (the PFSS) has been provided in the interests of demonstrating current fire safety measures at the property are appropriate and would not be adversely affected by the scheme. On the basis that this is a concise document that confirms points already decipherable from consideration of the submitted plans, I am content that no party with a potential interest in the outcome of these appeals is prejudiced by me accepting the PFSS for determination purposes. As such, the Council has confirmed that it no longer wishes to defend its third reason for refusing the application that is now the subject of Appeal A. I shall formulate the Main Issues accordingly.

Main Issues

4. The main issues are:

- Whether or not the proposed development and works would preserve the Grade II listed building known as '3-9, Bedford Gardens W8' (the LB) and any features of special architectural or historic interest that it possesses;
- Whether or not the proposed development and works would preserve or enhance the character or appearance of the CA; and
- The effect of the proposal upon the living conditions of neighbouring occupiers, having particular regard to privacy, outlook, and access to light.

Reasons

The LB

5. The LB is Grade II Listed and comprises a brown brick terrace of early 19th-century origin that is of three storey height with an additional basement (lower ground) level. Its significance and special interest is drawn, in-part, from its age, plan form, architectural detailing, traditional materials, and the internal hierarchy of its spaces (with an historic service function being associated to its lower ground level), which collectively reflect the Georgian era of the LB's origin. This significance and special interest is further underpinned by the homogeneity of the LB's principal frontage.
6. In contrast to the characteristically well-ordered and detailed principal frontage, a lesser sense of uniformity applies to the rear of the LB, which features a variety of projections of different ages and sizes at lower ground and/or upper ground floor level. These include a rear closet wing at upper ground floor (the closet wing) that comprises a part of the appeal property and sits distinct and separate from a recently replaced lower ground level summerhouse/outbuilding (the outbuilding). The LB's significance is thus also derived from the historic status and functional differentiation that is reflected in the respective configurations of the terrace to its front and rear.
7. Whilst the closet wing is a non-original feature of simple composition that is now supported by a modern red brick column beneath, it comprises an historic addition to the LB. Indeed, it appears on plans submitted in evidence by the Council dating to 1937 and would likely have been constructed in either the late 19th or early 20th-century. The closet wing is a feature that possesses heritage significance and special interest, not least on the basis of it offering a valuable insight into the manner in which usage of the property's internal spaces has historically evolved in a manner consistent with an elevated status being afforded to indoor sanitary facilities during the era of its construction. It is noteworthy that the closet wing remains accessible only via the main body of the property, which is an important aspect that informs legibility. For the avoidance of doubt, it is my consideration that any suggestion that the closet wing now comprises a mutilated later two storey extension has not been robustly substantiated.
8. The proposal is centred upon the creation of a terrace (the roof terrace) above the outbuilding's roof and an upper ground level connection to it from the closet wing via black wrought iron steps with railings to match. A punctuation of the closet wing's rear-facing southern elevation would be required to create a doorway for

the purposes of providing this connection. The scheme would alter the manner in which internal and external spaces would interact and be circulated. Moreover, the primacy of the connection between the property's lower ground floor and outdoor spaces (consistent with historic service functions) would be lost such that the ability to appreciate and understand the closet wing's historic function would be materially diluted. Furthermore, a loss of historic fabric (brickwork), albeit limited, would occur as a consequence of the doorway intended to be created.

9. It is also the case that the wrought iron stepped link would serve to formalise a direct physical relationship between the closet wing and the outbuilding. Indeed, at odds with the LB's historic plan form, it is my judgement that no longer would the outbuilding be obviously distinguishable as a subordinate feature distinct from the property's main living accommodation and historic core.
10. My attention has been drawn to the existence of other rear roof terraces in the immediate area, including to the rear of the same LB and neighbouring the site. However, the aforementioned 1937 plans indicate that a connection between the upper ground floor of No 5 Bedford Gardens (No 5) and its garden buildings was already in place when the LB obtained statutory protection and it has not been clearly substantiated otherwise. In any event, the scheme before me must be considered upon its own individual merits at this point in time whilst having due regard to the heritage significance associated to historic features that remain in-situ and merit preservation.
11. I accept that the proposed development and works would occupy a discreet location to the rear of the LB. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building or any addition to it can be gained. Moreover, a lack of visibility does not equate to a lack of harm.
12. I thus find that the proposed development and works would fail to preserve the LB and features of special architectural or historic interest that it possesses. This is for reasons that include a failure to respect the LB's historic hierarchy of spaces, pattern of circulation, and plan form, in conjunction with a minor loss of historic fabric. It follows that conflict arises with Sections 16(2) and 66(1) of the Act.
13. The degree of harm to the significance of the LB would, under the terms of the National Planning Policy Framework (December 2024) (the Framework), be less than substantial. The Framework requires less than substantial harm to a designated heritage asset to be weighed against the public benefits of the proposal, which I shall return to in my Heritage and Planning Balance below.

The CA

14. The significance and special interest of the CA as a designated heritage asset is drawn, in-part, from its range of featureful historic buildings and its compact linear layout. The LB comprises an important building within the CA that makes an indisputably positive contribution to the area's character and appearance.
15. In the context of the CA's character and appearance, the alterations that are intended, being focused to the rear of the LB in a general location where an eclectic range of modern alterations have already occurred, would have limited visibility and effect. Nevertheless, I have identified that the proposed development and works would result in some harm to the character and authenticity of an

important listed building within the CA. Therefore, in my judgement, there would inevitably be some residual harmful effect upon the character of the CA when taken as a whole, which would not be preserved or enhanced. Accordingly, conflict arises with Section 72(1) of the Act and less than substantial harm under the terms of the Framework is identifiable.

Living conditions

16. To the west of the site is located No 5, which is served by an existing rear terrace that would be positioned alongside the roof terrace that is proposed to atop the outbuilding. As depicted upon the Proposed Upper Ground Plan, it is intended that a 1.8 metre high traditional hardwood trellis be erected along the western edge of the roof terrace in conjunction with planting boxes. To my mind, given the dense urban environment that is in question (where some mutual overlooking across rear amenity areas is already commonplace) and the manner in which the outbuilding is already abutted by a brick-built boundary wall with railings above, I am satisfied that the erection of trellis in the manner intended would offer commensurate protection against any potential undue loss of privacy for the occupier(s) of No 5. In addition, no unacceptable loss of outlook or access to light would be fairly anticipated.
17. To the east of the site is located Nos 1 and 1A Bedford Gardens, and it is apparent that residential flats are in existence. Moreover, as was evident upon inspection, there are south-facing windows located alongside the appeal property. As is seemingly corroborated by floor plans contained upon the second page of the appellant's Appeal Statement, as well as by neighbour comments received at application stage, the closest aforementioned south-facing window (at upper ground level) would appear to serve a bedroom. In this context, if the proposed roof terrace were to be brought in to use with merely railings along its eastern side, as is depicted upon the Proposed Upper Ground Plan, an unacceptable loss of privacy would avail for the occupiers of the neighbouring upper ground floor flat owing to the availability of proximate same-level views.
18. Nevertheless, there would exist the opportunity to secure via planning condition, in the event the appeals be successful, the erection of screening along (or slightly setback from) the eastern edge of the roof terrace. This approach would, in my judgement, be capable of suitably guarding against unacceptable overlooking opportunities. On the basis that such screening would not need to be of excessive height, and the potential to explore robust screening solutions of not entirely opaque specification would exist, I am satisfied that no undue loss of light or outlook for neighbouring occupiers situated to the east would be fairly anticipated to arise. This is even whilst acknowledging the presence of rooflights serving lower ground floorspace immediately eastward of the site. I note here that no undue additional visual clutter would realistically materialise as a consequence of this approach.
19. Thus, for the above reasons, the scheme would have an acceptable effect upon the living conditions of neighbouring occupiers, having particular regard to privacy, outlook, and access to light. There is thus identifiable compliance with Policy CD9 of the New Local Plan Review (July 2024) (the Local Plan) in so far as this policy requires all development to ensure good living conditions for occupants of new, existing and neighbouring buildings.

20. For the avoidance of doubt, whilst potential noise and disturbance concerns have been additionally raised by an adjacent occupier, there is no need for me to consider these concerns in any detail here. This is because I have ultimately found the scheme to be unacceptable for other reasons.

Heritage and Planning Balance

21. In terms of public benefits, it has been asserted that landscaping to the roof terrace would provide welcome green enhancement to the betterment of rearward views from the LB. However, any planted elements to be introduced would necessarily be limited in number/extent and there would be no guarantee of their retention and active maintenance in perpetuity. Further, whilst it could be argued that the provision of the roof terrace would offer an improvement to the local housing stock and associated living conditions, such improvements would primarily cater for the requirements of the appellant on a private basis. As such, the weight to be attributed to the scheme's public benefits is minimal.
22. This leads me to conclude that, in the circumstances of this case, the public benefits do not outweigh the less than substantial harm that I have identified would be caused to the significance of either the LB or the CA. Indeed, despite being at the lower end of the less than substantial scale in the case of both designated assets, the identified harms carry considerable importance and attract great weight. Conflict therefore arises with the historic environment conservation and enhancement policies contained within the Framework.
23. Conflict also arises with Policies CD1, CD2, CD4, CD5, and CD10 of the Local Plan in so far as these policies require development to preserve the special architectural or historic interest and significance of listed buildings and to preserve or enhance the character or appearance and significance of the conservation area and thereby protect the special architectural or historic interest of the area. Without prejudice to these identified policy conflicts, satisfactory accordance with Policy CD15 (Views) of the Local Plan would avail on the basis that limited visibility would be associated to the proposed development and works.
24. As such, the proposal that is the subject of Appeal A conflicts with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conclusion

25. For the reasons given above, Appeal A is dismissed, and Appeal B is dismissed.

Andrew Smith

INSPECTOR