
Appeal Decisions

Site visit made on 9 September 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal A Ref: APP/K5600/C/25/3359961

Appeal B Ref: APP/K5600/C/25/3359770

Appeal C Ref: APP/K5600/C/25/3359771

Land at 23 and 25-27 Earl's Court Square, London, SW5 9BY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
 - Appeal A is made by Mr Patrick Spens.
 - Appeal B is made by Andrew Findlater.
 - Appeal C is made by Mrs Silvia Cappello.
 - The notice was issued on 19 December 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, the painting of a mural depicting Mary Poppins on the side flank elevation wall at roof level, between numbers 23 and Queens Court, 25-27 Earl's Court Square.
 - The requirements of the notice are:
 - i) Fully remove the mural from the wall, returning the wall to a blank finish, consisting of a colour to match the existing;
 - ii) Remove from the land any resulting debris.
 - The period for compliance with the requirements is: one calendar month after this notice takes effect.
 - Appeal A is proceeding on the ground set out in section 174(2)(a), (f) 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 and C are proceeding on the ground set out in section 174(2)(f) of the 1990 Act.
-

Formal Decisions

Appeal A

1. It is directed that the allegation in the notice is corrected by deleting the words "between numbers 23 and Queens Court, 25-27" and replacing them with "at 23 and 25-27".
2. Subject to the correction Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the painting of a mural depicting Mary Poppins on the side flank elevation wall at roof level, between numbers 23 and 25-27 Earl's Court Square as shown on the plan attached to the notice.

Appeals B and C

3. No further action is taken in relation to Appeals B and C.

The notice

4. For clarity I will amend the description of the breach of planning control to coincide with the description of the land the subject of the notice.

Appeal A: ground (a)

5. There is a long tradition of public art in Kensington and Chelsea. May fine examples exist of commemorative statues in the borough, including memorials to local figures of artistic and literary importance. So reads the introduction to the Council's supplementary planning guidance on public art, 2004 (SPG).

6. Cherry Tree Lane in London does not exist in real life. However, Earls Court Square does. In the Council's view, the appeal site is no place for the unauthorised development the subject of the enforcement notice. The appellant has painted a mural on the side flank elevation wall at the subject property, depicting a silhouette of Mary Poppins with an umbrella in her left hand and carpet bag in right, flying up to the real-life chimneys. Her figure is framed within the outline of a red heart.

7. The appeal premises are in the Earls Court Square conservation area (CA). They are subject to what is known as an "Article 4" direction by which permitted development rights have been removed for the "*painting of the exterior of any building or work.*" "Painting" for these purposes includes any application of colour.

8. The local residents' association (RA) helped to establish the CA in 1975, and Earls Court Square was in the original area. The RA is concerned to regulate the detail of development affecting the CA. For example, one of its "stipulations" is that the buildings on the west, north and east sides must be painted Magnolia BS4800 08B15 with woodwork in white. The colour of front doors appears to be the owners' choice but the colour recommended for house numbers is Black, Garamond and 7" in height. Whether or not the aim has been to render the appearance of the square practically perfect in every way, the RA is clearly a positive force in maintaining its laudable approach to maintaining uniformity to new development in the square, with the objective of ensuring that new development preserves and enhances the significance of the CA.

9. Historic England (HE) set out in its document Conservation Principles, Policies and Guidance, high-level principles for a philosophical framework of what conservation means at the beginning of the 21st century. It includes managing significant built heritage for current and future generations, recognizing its inherent value, unique characteristics, and potential for evidence, spiritual, cultural, or economic benefits. Key principles include understanding the heritage values of a place, applying systematic and science-based approaches to sustain these values, ensuring sustainability for future use and benefit, and engaging the public in shared responsibility for preservation and stewardship.

10. This approach appears to have been assiduously followed in the Council's CA appraisal document (CAA) whose aim, among other things, is to describe the special historic and architectural character of an area, considering elements such as architecture, uses, materials and detailing as well as the relationship between buildings and their settings. Other elements contribute to character and appearance such as views and vistas; the relationship between the street and the buildings and the presence of trees and green space.

11. The square developed rapidly in the late nineteenth century and it is said, so completely that there have been relatively few external changes since. Paragraph 6.1 CAA states:

“The area is well conserved with houses and gardens generally being well maintained and the streets clean and in good repair. Very few buildings actually have a harmful impact on the character and appearance of the conservation area and it is generally the smaller changes and development to the existing residential properties and shops which can harm the character and appearance of the conservation area. The Council will support proposals and where possible, take opportunities, to make improvements and enhancements in line with Policies CL1, CL2 and CL3 of the Local Plan.” (my emphasis).

12. Significance is a collective term for the sum of all the heritage values attached to a place. However, the significance of a conservation area is not found exclusively in the appraisal document. It is for the decision maker to assess this, having regard to the 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.

13. The CA has various short and medium views that change as one travels through the area. The CAA assesses the important views and marks them on Figure 5.1. They include all the views obtainable, looking both ways, along the four axes of the Square.

14. However, it has to be said that the mural is seen from very limited viewpoints, essentially travelling one way along the north side and on one side of the road only, and secondly, in views looking north when proceeding from the south-east corner of the Square, but only from a certain angle. The CAA illustrates the latter in a general view but as one can deduce from that image, and as found on inspection, the mural can only be seen when proceeding towards it on the right-hand side of the street.

15. The paint used in the mural appears to be weather-proof masonry paint. Red is not a recessive but a dominant colour that draws the eye and seldom goes unnoticed. That said, the area of red pigment is small. It is heart shaped. The mural is intended to express hope and painted during the aftermath of the pandemic known as Covid-19.

16. There was some early engagement with the RA and the appellant S applied for planning permission but there were technical difficulties with registering it online and it was, for whatever reason, not pursued. The Council officers put up a report to the Council's planning applications committee on 3 December 2024, recommending that it was not expedient to take enforcement action.

17. The councillors disagreed and requested that enforcement action be taken on the grounds that harm was caused to the CA, but no elaboration of that reasoning was apparent. So, a further report was prepared in which an officer wrote out the reasons why enforcement action should be taken, and this was signed off by a senior officer.

18. In reply to my request of the Council for some articulation of the members' reasoning, I was directed to the public web site where the meeting of 3 December was recorded. Whilst some contributions seemed to imply that enforcement action should follow inexorably upon a breach of planning control being clearly identified, other contributions gave a more nuanced view of whether and why it would be expedient to take enforcement action.

19. The mural has a contemporary feel, and whilst it is at a high level, it is a noticeable feature of the roofscape against traditional architectural elements of the upper floor facades of the whole terrace. However, in my opinion it is by no means dominant in either the roofscape or the street scene. It is not readily visible due to the very limited views of it that are available to the public. It is perceived as a small structure in its own right and against the expanse of wall on which it is painted.

20. The painting may be said to offer a minimal counterpoint to the uniform colours of the terrace. It is not visually dominant due to its overall height and small scale in comparison to the dwelling and more particularly the views of the dwelling where obtainable in conjunction with the mural. Aesthetically, I do not find that it presents as an inharmonious companion to the existing roofscape which retains its strong architectural and historical character and appearance.

21. The materiality of an effect on external appearance is context-specific and works that are material in one location may not be material in another. The mural is positioned on the side elevation to attract attention. Although I appreciate it is a snapshot in time, I lingered and observed several people come and go through the square. Not one looked up to anywhere near the mural.

22. Within the wider street scene, properties do not generally have extensions or alterations made of incongruous materials. Indeed, the significance of the CA is demonstrated through the consistent use of traditional form and materials used in the construction of the individual dwellings and terraces of which they form part. The views across the Square that encompass the verdant and attractive gardens in the middle, are unaffected. The mural has preserved the visually harmonious streetscape typical of this CA. The mural's intrusion into the street scene, peeping out at high level, is not harmful to the dominant traditional features in views in and out of, or across the Square.

23. If there were some marginal harm to the significance of the CA, 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, ie the CA, must be weighed against its public benefit (if any). S is unrepresented and has not put his case in this way, however he is quite clear that the mural is intended to be a message of hope for those who view it, based on the experiences of the Covid pandemic that has affected, and continues to affect so many. That said, I do not find harm.

24. The analogy is imperfect, but one may consider a long word that can be broken down into its elements, for example that used in the Mary Poppins narrative. One sees super- "above", cali- "beauty", fragilistic- "delicate", expiali- "to atone", and -docious "educable", which combine to create a whole word¹. Metrical feet and the rhythm of terraced buildings are connected through repetition and visual pattern. The combination of stressed and unstressed syllables in the rhythm of the phrase influences its accent and delivery. In a row of terraced buildings, the repeated architectural elements, - windows, doors, and rooflines serve as the metrical feet. The repeated elements create a pleasing pattern across the entire facades and provide a sense of order, harmony, and consistency.

25. So, in this overall visual metre of the streetscape on the north side of the square, the mural intrudes. It is not intended to be a repetitive element, but its overall effect within the CA is minimal. I do not find it to be a harmful effect. The painting is seen

¹ As defined in the OED, a nonsense word, originally used esp. by children, and typically expressing excited approbation: fantastic, fabulous.

against the backdrop of a side elevation wall exposed as a result of the step up from 4 storeys at the appeal premises. It does not create, so much as accentuate a caesura, a break that already exists in the change up to 5 main storeys at Nos 25-27. The roofline itself is unbroken by the mural. The caesura occasioned by the increased height of the buildings at this juncture is merely punctuated the more by the painting, but not in my view, in a harmful way. If anything, it is a slight embellishment. The mural may be seen as a differentiating feature on the roofscape, but I disagree that its execution is insensitive to the character and appearance of its host property, the CA and recognised views within it.

26. For the above reasons I find that the development preserves the existing context, character and appearance of the local townscape, and the particular characteristics of the building type on which it is installed, in accordance with the Local Plan 2024 (LP) Policy CD1. The development is of a design quality including the use of materials that meets high standards and improves, albeit in a small way local character, compliant with Policy CD2. In accordance with LP Policy CD10 the alteration to the subject building does not harm its existing character and appearance or its context and if anything enhances it slightly.

27. In relation to LP Policy CD12 there are no roof alterations or additional storeys adversely affected by the development. Whilst the CAA states that additional clutter at roof level detracts from the character and appearance of the CA, I do not perceive the development as clutter, rather as a small and marginally positive addition at the roofline of the subject and surrounding properties. As regards LP Policy CD15, despite the recognised importance of townscape views in this CA and in this part of the CA, the mural does not undermine in a negative way the views, vistas, gaps and the skyline that all contribute to the character and quality of the area.

28. Recognising that great weight is given to the importance of conserving and enhancing designated heritage assets, I find that, in line with Policies CD3 and CD4 no harm is caused to the significance of the CA or of any of its individual elements.

29. I conclude that the mural complies with the key policies of the development plan cited above and with the development plan as a whole. I find that there are no other considerations submitted by the Council or interested persons that would indicate a decision should be taken otherwise than in accordance with the development plan. I shall therefore grant planning permission.

Other matter

30. As one enters the roof terrace itself, a private space, and crosses to the farthest point away from the mural in the rear corner, the expanse of wall on which it is painted is seen behind a string of lights fixed to arms or cables. They are not visible from any public vantage point, and they appear as perhaps a stave of music with the lines all criss-crossed, the individual lights hanging down from them, musical notes as it were, all jumbled up. The Council's revised report says that it is likely that the mural can be seen from private views in the upper floors of properties on the east side of the square. That may be so and they may also perceive the mural through the domestic paraphernalia on the terrace but in their own way and not as a positive feature.

31. However, there is no automatic right to a particular view from a private property. No compelling case is made that the development is so close, large, or dominant viz a viz another's property that it conflicts with national or local policy, in particular LP Policy CD9 which aims to ensure developments provide good living conditions for occupants

of new, existing and neighbouring buildings. Indeed, the Council accepts that due to the nature of the works they are compliant with LP Policy CD9.

Conclusion

32. For the reasons given above, I conclude that Appeal A succeeds on ground (a). In these circumstances the appeal on ground (f) falls away. I shall grant planning permission for the development as described in the notice as corrected. The enforcement notice will be corrected and quashed.

33. Appeals B and C on grounds (f) and (g) do not therefore fall to be considered and no further action is taken on these appeals.

Grahame J Kean

INSPECTOR