



Appeal Decision

Site visit made on 19 January 2026

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/A5840/W/25/3369423

12-14 Marshalsea Road, London, SE1 1HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Cyrus Homes Limited against the decision of the Council of the London Borough of Southwark.
 - The application reference is 24/AP/1382.
 - The application sought planning permission for a proposal described as '*Variation of Condition 2 of original application Ref. 16/AP/1767 (Extension of the existing mansard roof to create a full storey (6th floor) to match the buildings below and the erection of a new mansard roof above, together with the change of use of part of the ground floor accommodation at no. 14 from an office (Use Class B1(a)) to a café (Use Class A1/A3) and the change of use of the first, second, third, fourth, fifth floors of no. 14 from offices (Use Class B1(a)) to 5 x two bedroom flats and the use of the new roof level accommodation as 2 x one bedroom flats: together with refuse and cycle storage at ground floor level) by providing Juliette balconies on the Disney Place elevation, reconfiguration of the 6th floor units to provide an additional bedroom each within each flat, amendments to the design of the 6th floor, amendments to the window openings at 4th, 5th and 6th floor, formation of roof terrace and installation of plant to the roof*' without complying with a condition attached to planning permission Ref 21/AP/1935, dated 23 September 2021.
 - The condition in dispute is No 1 which states that: *The development shall be carried out in accordance with the following approved plans: 1000E(2)01 Proposed Elevation Plans - Proposed (REV: Rev B) received 13.07.2021, 1000P(2)11 Proposed 6th Floor and Roof Plan Plans – Proposed (Rev: Rev B) received 07.09.2021, 1000P(2)10 Proposed Plans – Proposed (Rev A) received 04.06.2021 .*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is allowed and planning permission is granted for the extension of the existing mansard roof to create a full storey (6th floor) to match the buildings below and the erection of a new mansard roof above, together with the change of use of part of the ground floor accommodation at no. 14 from an office to a café and the change of use of the first, second, third, fourth, fifth floors of no.14 from offices to 5 x two bedroom flats and the use of the new roof level accommodation as 2 x two bedroom flats: together with refuse and cycle storage at ground floor level, formation of roof terrace and installation of plant to the roof at 12-14 Marshalsea Road, London, SE1 1HL, in accordance with the application Ref 24/AP/1382 without compliance with Condition 1 previously imposed on planning permission Ref 21/AP/1935 dated 23 September 2021 and subject to the conditions in the attached schedule.

Preliminary Matters

2. During my site visit I observed that the proposal has been largely completed. Amended drawings have been deposited with the appeal. These correct the inconsistencies described by the Council and are therefore helpful in that regard. That said, the drawings also make amendments to the scheme. In particular, the drawings now show the rear windows as installed. At fourth floor level the windows are larger than originally proposed and comprise four panes rather than seven. The windows at fifth floor level also now contain five panes rather than seven with the cill level of the western windows dropped to match the others. The number of panes at sixth floor level has been reduced from six to five.
3. The Procedural Guide: Planning Appeals currently explains that the appeal system should not be used to evolve a scheme although amendments may be accepted if they are not substantial in nature and it would be procedurally fair. In this case, the alterations are not substantial in nature. The window positions are not altered and nor is the general design as both schemes propose large modern windows. The outlook from the windows, and thus the impact on neighbours, would not change because of the alterations. Moreover, the Council has not objected to the changes and have considered them. As such, I am satisfied that no prejudice would be caused from accepting and considering the amended plans.

Background and Main Issues

4. Planning permission was originally granted for the proposed development under application reference 16/AP/1767. This permission was subject to Condition 2 which required the approved scheme to be carried out in accordance with a set of approved plans. An application was later made to amend those approved plans. This application (Reference 21/AP/1935) was approved in 2021. A further application has been made to revise the plans (Reference 24/AP/1382). The Council refused this application for the reasons given on the decision notice and the appellant has subsequently exercised their right to make this appeal.
5. Upon reviewing the amended plans and additional information submitted with the appeal, the Council has understandably confirmed in its statement of case that it does not wish to pursue the second reason for refusal (lack of information relating to the works proposed at roof level). As such, the main issue in this appeal flows from the first reasons for refusal, this being the effect of the proposed amendments to the fenestration in the rear elevation of the appeal building on the significance of the Liberty of the Mint Conservation Area (CA).

Reasons

6. With reference to the Liberty of the Mint Conservation Area Appraisal (CAA) and my site visit, it is apparent the CA encompasses a reasonably intact surviving section of townscape that predominantly dates from the late 19th Century. Of note is the historic examples of Victorian social housing and former warehouses. The CA therefore has historic, evidential and aesthetic value as a distinctive, harmonious and attractive collection of buildings, streets and spaces.
7. The buildings identified in the CAA as having merit tend to be 19th Century properties with fenestration dating from this era, often in the form of timber sash or casement windows painted white and arranged to impart symmetry and balance. The windows tend to include glazing bars dividing the glass into small panes

although some of the old warehouses have larger windows, albeit divided in a similar way. The harmony in the fenestration is an important component of the CA. Some of the more modern buildings in the CA have larger areas of glazing untypical of the 19th Century. However, these are not generally identified as buildings of merit.

8. The appeal building is on the northern side of Marshalsea Road. The CA boundary is tightly drawn around it and the property immediately to the east. It is a former 19th Century warehouse positioned on the corner of Marshalsea Road and Disney Place and finished in a stock brick typical of the area with red brick bands providing ornamentation. Casement windows set behind reveals are pleasantly arranged in the front and side elevations. There is a pleasing balance between windows and brickwork. This all reinforces the 19th Century character and aesthetic of the CA resulting in the building justifiably being identified in the CAA as being of merit.
9. Marshalsea Road is an important thoroughfare of the CA as several notable buildings are visible along it, including the Douglas Buildings. There is also a view towards the St George the Martyr Church. The Council has confirmed that it is unconcerned by the scheme's impact on the aesthetic value of Marshalsea Road. Instead, the Council are concerned that the alterations to the windows in the rear elevation would harm the aesthetic value of the CA when experienced from Disney Place, which is a short and narrow side street linking Marshalsea Road with Little Dorit Park and Little Dorit Court.
10. The rear elevation of the building is orientated towards a recently constructed block of flats and a car park serving Babington House. The land to the north of the appeal site is outside the CA. A large portion of the rear elevation of the appeal building is screened in views looking into the CA along Disney Place by the building immediately to its rear. Nevertheless, it is possible to see some of the new windows. The size of the openings and the glass panes, as well as the lack of glazing bars, is untypical of the CA and does not respond to the underlying character of the 19th Century townscape from which the CA derives its significance. Indeed, the contrast is possible to see in views along Disney Place as the white painted timber sash windows in the building on the corner of Sanctuary Street can be seen in the backdrop of the appeal building. Small incremental changes can cumulatively erode the value and significance of a CA over time.
11. However, the approved scheme includes modern floor to ceiling windows that bear no meaningful resemblance to the 19th Century character of the appeal building or the 19th Century townscape. The appeal scheme needs to be seen in this context. The proposal now before me increases the size and extent of the glazing but also retains the similar modern style. The ratio of brickwork to glazing has diminished on account of the alterations relative to what is approved, but it is to one elevation of the building visible in only glimpsed views from a side street. The alterations are also to an upper floor in a narrow visual envelope given the presence of other buildings nearby, including the new flats to the rear. Accordingly, the proposed alterations do not stand out to the casual observer.
12. In addition, the proposed windows are viewed in the context of the large modern windows to the north of the appeal site. In this respect, the proposal does not stand out as a discordant element of the local townscape. The dark framing also responds to that used on the other elevations of the building and the red brick banding is still apparent and incorporated into lintels above the windows. The

proposed windows also have a vertical alignment like the fenestration to the front. Therefore, when considered in the round the proposal, on balance, preserves the aesthetic value of the CA and its significance taken as a whole. A conflict with the National Planning Policy Framework has not occurred.

13. In conclusion, the proposal does not harm the significance of the CA, its character and appearance is preserved when paying special attention to the desirability of doing so¹. Consequently, the appeal scheme adheres to Policy HC1 of the London Plan and Policies P13, P14, P20 and P21 of the Southwark Local Plan as supported by the Heritage Supplementary Planning Document. The Council has also referred to Policy P26 but have provided no evidence to demonstrate the building is locally listed despite the appellant saying it is not. As such, this policy is not relevant in this instance.

Other Matters

14. Concerns have been raised that the appeal scheme harms the privacy of neighbours. Although the windows to the rear are larger, the extent of overlooking from them has not increased relative to what is approved. The new windows, including one inserted in the western elevation, are the same distance from neighbouring properties as those already approved and have a very similar outlook and orientation. Accordingly, the impact on living conditions is not meaningfully greater than what has already been approved. I therefore share the view of the Council and appellant that there is no harm to living conditions.
15. The Council has confirmed in the Officer's report that the original planning obligation has been drafted so that it also binds any subsequent applications.

Conditions

16. Planning Practice Guidance makes clear that decisions under Section 73A should restate the conditions imposed on earlier permissions that continue to have effect. The Council has provided a list of suggested conditions, and these have been reviewed by the appellant. As development has commenced there is no need to for a condition in this regard. The previously imposed materials condition should endure as not all of the proposed materials match the existing building. It is unnecessary to impose the new condition suggested by the Council seeking further details because the windows have been installed and the other works to the roof are recessive or inconspicuous. I have altered suggested Condition 6 without changing its meaning to ensure it is enforceable.

Conclusion

17. The proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is allowed.

Graham Chamberlain
INSPECTOR

¹ As required by s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Schedule of Conditions

1. The development shall be carried out in accordance with the following approved plans: P(2)10 Rev E, P(2)11 Rev H, E(2)01 Rev H and S(2)01
2. The Rated sound level from any plant, together with any associated ducting shall not exceed the background sound level (LA90 15min) at the nearest noise sensitive premises. Furthermore, the plant specific sound level shall be 10dB(A) or more below the background sound level in this location. For the purposes of this condition the background, rating and specific sound levels shall be calculated in full accordance with the methodology of BS4142:2014 +A1:2019
3. The development shall be carried out in accordance with the details approved under approval of details application ref. 24/AP/3518 unless otherwise agreed in writing by the LPA.
4. The material to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and approved plans unless the local planning authority has first approved in writing a change or variation.
5. With the exception of disabled persons, the development shall not be occupied by any person that has a permit to park vehicles within the controlled parking zone in Southwark in which the development is situated.
6. The ground floor café shall only open for customers between the following hours: [0630 - 2100] Mondays – Fridays, [0700 - 2100] Saturdays and Sundays.
7. Before first occupation of the development hereby permitted, the cycle storage facilities as shown on the approved plans shall be provided and thereafter such facilities shall be retained and the space used for no other purpose.

End of Schedule