
Appeal Decision

Site Visit made on 7 January 2026

by **J Whitfield BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th February 2026

Appeal Ref: APP/K5600/C/24/3352699

12-14 Pottery Lane, London W11 4LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Nicolas Joseph against an enforcement notice issued by the Royal Borough of Kensington and Chelsea (the LPA).
 - The notice was issued on 16 August 2024.
 - The breach of planning control as alleged in the notice is, without planning permission, the installation of planters around the perimeter of the flat roof of the property.
 - The requirements of the notice are:
 - i. Remove from the land all of the planters including any associated fixtures and fittings.
 - ii. Remove from the land any resulting debris.
 - The period[s] for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (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.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal on ground (a)

2. An appeal on ground (a) is brought on the basis that, in respect of any breach of planning control stated in the notice, planning permission ought to be granted. Where an appeal on ground (a) is duly brought, an application for planning permission is deemed to have been made under section 177(5) of the Act.

Main Issues

3. The main issues are:
 - the effect of the development on the living conditions of neighbouring residents with regard to noise and disturbance, overlooking and outlook; and,
 - whether the development will preserve or enhance the character or appearance of the Norland Conservation Area.

Reasons

Living Conditions

4. The notice alleges harm will arise to the living conditions of neighbouring residents from the planters as they facilitate the use of the flat roof as an outdoor terrace. It was clear from my site visit that is the case, with a glazed window hatch providing access out onto the roof.
5. However, the LPA's own evidence indicates that a lawful development certificate (LDC) was issued on 2 February 2018 which confirmed the use of the roof as a terrace as lawful¹. Whilst I note the LDC related solely to use and not operational development, there is no evidence before me that circumstances have changed such that use of the roof as a terrace is no longer lawful. Thus, the planters do not facilitate the principle of the use of the roof terrace, and it could be used as such in their absence.
6. Nonetheless, the LPA argues that the planters mean the terrace could be used more intensively than if they were not present, because without them, only the centre of the terrace could be used. Now, it is said, people could move closer to the edge. However, the overall size of the terrace is not particularly large and, in my view, the planters do not significantly increase the amount of usable space on the roof.
7. It seems to me that views into windows of neighbouring properties would be open to people on the terrace regardless of whether the planters were there or not. Being able to move slightly closer to the edge is unlikely to materially affect the existing overlooking situation between the roof terrace and those properties on Portland Road, in particular Nos 63, 65 and 67. Whilst the LPA invited me to view the development from within those properties, I am satisfied that I was able to fully appreciate the relationship from the roof terrace itself and the submitted evidence. Moreover, the planters themselves assist in partially screening those views, particularly when people are sitting down and in that sense, they improve the situation than if there were no means of enclosure at all. Furthermore, at the time of my site visit, they all contained plants (artificial or otherwise) which increased the height and assisted in partially screening views from the terrace into the neighbouring properties.
8. In any event, the built environment here is tightly knit, with dwellings in close proximity to one another, typical of mews housing. Intervisibility between dwellings and their outdoor spaces at close quarters are a characteristic of existing relationships between buildings. Consequently, I am satisfied that the planters will not result in a harmful loss of privacy through overlooking for neighbouring residents.
9. Moreover, since in my view the planters will not significantly increase the amount of useable terrace space, it follows that they will not significantly increase the number of people that can be accommodated. The LPA alleges the planters will increase instances of use of the roof terrace, however, as a matter of fact the use of the roof terrace is lawful and there is nothing before me to say it could not be used more frequently without the planters. As a result, I am satisfied that the

¹ LPA Ref: CL/18/00226

development will not harmfully increase noise levels to the detriment of neighbouring properties.

10. However, the planters have resulted in a substantial increase in the height of solid expanse of built form visible from within the properties to the rear, most notably Nos 63, 65 and 67, where the outlook from windows on the lower levels in particular has been significantly impacted by the increase. In addition, given the tight urban grain on Pottery Lane, the planters appear stark and prominent in the outlook from windows in the front of the properties opposite. This impact is exacerbated on the occupiers of all those neighbouring properties by their stark appearance, black colouring and solid design. In my view, the planters have resulted in an increase in massing of unrelieved built form in such proximity that they have a harmful impact on the outlook of neighbouring properties.
11. I conclude, therefore, that whilst the development will not have a harmful effect on the living conditions of neighbouring residents with particular regard to overlooking and noise and disturbance, there will be significant harm arising to the living conditions of neighbouring properties with regard to outlook.
12. The enforcement notice cites conflict in this regard with Policy CD8 of the New Local Plan Review July 2024 (the Local Plan). However, Policy CD8 relates to the acceptability of tall buildings in relation to their assessment against Policy CD9. As such, it does not seem relevant to the matter at hand.
13. Nonetheless, Policy CD9 of the Local Plan states that the LPA will require all development ensures good living conditions for occupants of new, existing and neighbouring buildings, in particular, that the LPA will require that there is no harmful increase in the sense of enclosure to existing buildings and spaces, neighbouring gardens, balconies and terraces. The development therefore conflicts with Local Plan Policy CD9.

Conservation Area

14. The Land lies within the Norland Conservation Area (the CA), the significance of which derives from its historical origins as a planned estate in the 1840s and 1850s. The character and appearance of the CA is principally derived from the linear street pattern, the two formally laid out gardens of Norland Square and St James' Gardens and the grand, curved, terrace of Royal Crescent with its gardens to the front.
15. Pottery Lane is located in the eastern part of the CA. In contrast to the aforementioned features, this part of the CA is characterised by tightly knit, urban streets of houses, cottages and mews opening directly onto the pavement. The Norland Conservation Area Appraisal (2018) (draft) (the NCAA) identifies Pottery Lane only as a collection of buildings with mews scale and character, with some buildings connected with frontage buildings on Princedale or Portland Roads. It notes that some recent designs have been less success in interpreting traditional mews buildings in a modern idiom than others, as they have overlarge unrelieved glazing, unpainted timber and flat render finishes.
16. The appeal site comprises 12-14 Pottery Lane, a two-storey, mid-terraced mews house which forms part of a singular terrace located on the east side of the street. The property, like the remainder of the terrace, is flat roofed. The NCAA identifies that there are a number of original roof forms which positively contribute to the

character and appearance of the CA. Flat roofs are not identified as such. Nonetheless, the NCAA identifies that flat roofs have sometimes been adapted as roof terraces with the attendant screening, plants and patio furniture protruding into the otherwise clean lines of the roofscape.

17. In this instance, I was able to see from my site visit that Pottery Lane does not necessarily exhibit clean lines in its roofscape. There are frequent variations in the heights of the properties, with little cohesion in the scale and design of the facades. Moreover, I was able to see that there is a wide variance of roof features along the flat roofs of Pottery Lane with some properties exhibiting parapets whilst others not. I was also able to see chimneys of varying forms, as well as other roof terraces featuring planters and such paraphernalia.
18. The development has introduced the placement of darkly coloured, aluminium planters around the edge of the flat roof. They are approximately 1m to 1.3m in height and sit at the edge of the roof and are arranged to form continuous lengths of enclosures along the roof. As a result of their elevated position, they are visible in the street scene.
19. However, given their height, and the varying scale of the roofline and given the wide variation of roof types and features, along with the lack of cohesion in the design of the street scene, they do not appear unduly incongruous in my view. Indeed, there is a lack of uniformity along the roofscape and thus, the planters do not detract from it. As such, they do not harm the features of the CA from which it derives its significance.
20. I conclude, therefore, that the development will preserve the character and appearance of the CA. To that end, it will comply with Local Plan Policies CD1, CD2 and CD3 which seek to ensure development: respects existing character and appearance; meets the highest standards of design; and, preserves or enhances the significance of heritage assets.
21. The LPA also cite Policy CD12 which requires roof alterations to be sympathetic to the form and character of the building or groups of buildings, Policy CD4 which requires development to preserve or enhance the character or appearance and significance of conservation areas, Policy CD10 which requires that alterations and additions do not harm existing character and Policy CD15 which requires development to preserve or enhance views in conservation areas. For the reasons above, I find compliance here with all of those policies.
22. In addition, the development will also comply with Policies N1, N2 and N6 of the Norland Neighbourhood Plan 2013-2028 (the Neighbourhood Plan) which require: new development to complement or enhance existing character; roof alterations and additions to be harmonious to the character and appearance of the building and its context; and, the siting of small-scale additions to be sensitive to the outside appearance of the building and the effect on the street scene.
23. The notice refers to conflict with Local Plan Policy CD11. However, the policy relates to basement development and thus is not relevant here. Reference is also made to Policy CD9 which relates to living conditions and is not relevant in this regard. Likewise, reference is made to a Policy CL14, however, there is no evidence of such a policy before me.

Conclusion

24. I have found that the development will preserve the character and appearance of the CA whilst no harm will arise to the living conditions of neighbouring residents with regard to loss of privacy or noise and disturbance. However, I have found the development will result in harm to the living conditions of neighbouring residents with regard to outlook. That harm outweighs the lack of harm in respect of the other main issues and thus, the development conflicts with the development plan taken as a whole. Consequently, for the reasons given above, I conclude that the appeal on ground (a) and the deemed application for planning permission should not succeed.

Appeal on ground (f)

25. An appeal on ground (f) is brought on the basis that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach.
26. Section 173(3) of the Act states that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, the purposes set out in Section 173(4). They are (a) remedying the breach of planning control; or (b) remedying any injury to amenity.
27. The notice does not state which of the two purposes it seeks to achieve. Nonetheless, the steps specified require the removal from the Land of all the planters including any associated fixtures and fittings. To that end, I am satisfied the purpose of the notice is to remedy the breach of planning control by restoring the Land to its condition before the breach took place.
28. The appellant argues that the requirement to remove the planters is excessive. It is said that lesser steps would be to return the planters to their layout as shown on the approved drawing ref 508-PP05. However, that drawing relates to the February 2018 grant of an LDC, not a planning permission. Section 173(4) of the Act sets out that a notice can remedy the breach of planning control by, inter alia, requiring the development to comply with the terms of a planning permission. Whilst planters are shown on the plan, the LDC simply established that the use of the roof as a terrace was lawful, not that the operational development of the planters erected on the roof at that time were. To that end, it is not open to me to impose lesser steps that would allow the planters subject of the notice to remain. Indeed, doing so would not remedy the breach of planning control.
29. The appeal on ground (f) therefore fails.

J Whitfield

INSPECTOR