



Appeal Decisions

Hearing held on 2 October 2025

Site visit made on 3 October 2025

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 April 2026

Appeal A Ref: APP/K5600/W/24/3350392

39 Harrington Gardens, Kensington and Chelsea, London SW7 4JU

- 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 Mr J Woolf against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/08430.
 - The development proposed is described as 'Internal and external alterations - a full description of the proposed works can be found in the Heritage Statement.'
 - This decision supersedes that issued on 6 February 2025. That decision on the appeal was quashed by order of the High Court on 6 May 2025.
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Appeal B Ref: APP/K5600/Y/24/3350391

39 Harrington Gardens, Kensington and Chelsea, London SW7 4JU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr J Woolf against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref is LB/23/08431.
 - The works proposed are described as 'Internal and external alterations - a full description of the proposed works can be found in the Heritage Statement.'
 - This decision supersedes that issued on 6 February 2025. That decision on the appeal was quashed by order of the High Court on 6 May 2025.
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Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Applications for Costs

3. Applications for costs have been made by Mr J Woolf against the Council of the Royal Borough of Kensington and Chelsea. These applications are the subject of separate decisions.
4. Applications for costs have been made by the Council of the Royal Borough of Kensington and Chelsea against Mr J Woolf. These applications are the subject of separate decisions.

Preliminary Matters

5. Previous appeal decisions for the proposal, dated 6 February 2025, were quashed by order of the High Court on 6 May 2025, and so are required to be redetermined.

The previous decisions have no legal effect. My role is to redetermine the appeals and not to review the previous decisions. That said, they are capable of being a material consideration.

6. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
7. The descriptions of development and works in the headings above are taken from the joint application form. They differ from the descriptions in the Council's decision notices and the appellant's appeal forms which are, 'External alteration to glaze over lightwell, works to front steps and other external alterations. Internal alterations throughout, including alterations to partitions and other internal alterations.' These descriptions are agreed by the parties, and I have redetermined the appeals on this basis.
8. Following the refusal of the applications, the Council adopted The Royal Borough of Kensington and Chelsea, New Local Plan Review in July 2024 (the Local Plan 2024). This superseded the Council's Local Plan 2019 and Policy CL4 which is cited in the Council's decision notices. The relevant policies of the Local Plan 2024 are set out in the agreed and signed Statement of Common Ground¹ (SoCG), with Policy CD5 Heritage Assets – Listed Buildings, being the most pertinent. Policy CD5 reflects both the statutory duties relevant to listed buildings within the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) and the policy requirements within the National Planning Policy Framework (the Framework) regarding designated heritage assets.
9. The ground on which the previous decisions were quashed concerned the implementation, or not, of a previous planning permission (referred to as the March 22 consent²), and the subsequent public benefits balance undertaken. The parties disagree on this matter, with the appellant advancing that the March 22 consent has not been implemented, and that it has now expired; and the Council submitting that it has been implemented, and that the matter is now the subject of legal action.
10. It is not for me as part of the redetermination of the appeals to resolve whether or not the March 22 consent has been implemented, particularly in the context of any legal action³. Even if it were, it would not be possible to reach a conclusion on this matter given the limited written and oral evidence provided. Nonetheless, the previous grant of planning permission for the change of use of the property is part of the planning history of the appeal site (the site), and whilst I note the appellant's comments on the limitations of the March 22 consent, it demonstrates that a scheme which would allow for the change of use of the building to a single family dwelling is achievable. In these respects, it is a relevant material consideration in the redetermination of the appeals.
11. The appellant's Revised Statement of Case includes a set of floor plans referred to as 'overlay plans' at Appendix 3. These are stated to use the original plans and include (1) the matters for which consent was originally sought; (2) the matters for which consent has now been granted; (3) the matters for which consent is no longer pursued (also detailed in a schedule), and (4) those remaining works for which consent is now sought and which form the subject of these appeals.

¹ Received 15 August 2025.

² Application Ref: PP/21/04411, Change of use of building from office (Class E (g) (i)) to a single family dwelling (Class C3), with associated internal alterations.

³ Which was disputed by the appellant at the hearing, and the matter is included in their costs applications.

12. The 'reduced scope of works' and the overlay plans are included under 'Matters of Agreement' at 8.1.5 and 8.1.6 of the SoCG⁴. However, immediately prior to and at the hearing, the Council submitted that it had agreed to plans being appended to the SoCG in good faith and on the assumptions that they reflected that which was agreed at the previous hearing and the fourth floor alterations granted on appeal; and that they were largely for information purposes. The Council confirmed at the hearing that it did not agree to the reduced scope of the scheme as part of the redetermination of the appeals.
13. The matter of whether the overlay plans should be accepted and, if so, on what basis, was discussed at the hearing. The procedural guide for planning appeals is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Local Planning Authority and by interested parties at the application stage⁵. I am also mindful that the previous Inspector based their decisions on the proposal considered at application stage and not a revised scheme which was advanced at the time of the previous appeals.
14. Of the granted elements as detailed on the overlay plans⁶, although the underfloor heating and floor finishes are the same as the original plans, the rear basement and fourth floor illustrate slightly different layouts to the original plans, primarily relating to the position of new partitions. Moreover, the 'removal' of specific elements as detailed on the overlay plans and colour coded schedule⁷, further amends the scheme which was considered by the Council and previous Inspector.
15. However, the grant of planning permission and/or listed building consent for elements of development and/or works at application or appeal is a material change in circumstances on site and of relevance in the redetermination of the appeals. In this regard, the Council confirmed that it would not defend its opposition to the alterations on the fourth floor proposed as part of this scheme. Moreover, I note that all of the changes for which planning permission and listed building consent are sought, formed part of the appellant's original applications.
16. Taking the above into account and having regard to the tests in settled caselaw⁸, to my mind, the amendments to the scheme as a result of small changes to the proposed layouts at basement and fourth floor levels (as granted) and the specific elements proposed to be removed, would not individually or cumulatively amount to a fundamental change to the proposed scheme, such that it would result in a 'different application'.
17. Additionally, representations made by external interested parties raised no issues with these elements of the scheme; and the Council and any interested parties have had the opportunity to comment on the amendments⁹. I am therefore satisfied

⁴ 8.1.5 The reduced scope of works comprised within the Proposed Development as set out in section 5 and annotated in the Original Drawings. 8.1.6 The annotated Original Drawings as contained in Appendix 1. The overlay plans were received 19 August 2025 (as the ones initially attached to the SoCG were incomplete).

⁵ Section 16: Procedural Guide: Planning appeals – England. For appeals relating to applications dated on or before 31 March 2026.

⁶ Including alterations to rear basement layout; provision of underfloor heating and restoration of all floor finishes to all floors; alterations to fourth floor layout; installation of photo voltaic panels; and installation of dormer to roof.

⁷ Including removal of Fan Coil Units and Ducts at basement, ground, second, and third floors; removal of gate at basement level; retention of existing door at basement level.

⁸ *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the 'Wheatcroft principles' set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982).

⁹ Either as part of the applications / appeals for the granted elements, or as part of the redetermination of the appeals for the elements proposed to be removed.

that the amendments to the proposed scheme before me pass the substantive and procedural tests. I exceptionally accept the overlay plans and have had regard to them in the redetermination of the appeals.

18. Immediately prior to the hearing, in support of their case, the appellant submitted a 'Representation on behalf of the Freeholder'¹⁰. Having regard to the procedural guidance and settled caselaw cited above, the three page representation does not amend the scheme. Whilst it could reasonably be concluded to introduce a new issue for consideration in terms of the perceived viability of the March 22 consent scheme in comparison to the appeals scheme, the Council was given the time and opportunity to consider and respond to it at the hearing. I am satisfied that the representation passes the substantive and procedural tests. I therefore exceptionally accept it and have taken it into account in the redetermination of the appeals.
19. I note the 'Matters of Agreement' and 'Matters Not Agreed' in sections 8 and 9 of the SoCG, and the conclusions of the previous Inspector in their decision letter of 6 February 2025. Even so, as decision maker discharging the statutory duties of the Act relevant to these appeals¹¹, it is incumbent on me to assess the scheme as a whole. Consequently, the discussion at the hearing concerning the effects of the proposal was based upon the lists of development and works as set out in 2.7-2.13 and Appendix 2 of the appellant's Revised Statement of Case, and the table at 5.6 of the appellant's Heritage Appeal Statement. These lists have regard to the material change in circumstances on site due to the granted permissions/ consents and the removal of specific elements from the scheme. In the interest of fairness, at the hearing, the Council was given the opportunity to comment on any other elements of the original scheme that are not on these lists.

Main Issue

20. The main issue is whether the proposal would preserve the special architectural and historic interest of the Grade II* listed building, 39 Harrington Gardens SW7.

Reasons

Special interest and significance

21. No 39 Harrington Gardens is a Grade II* listed building¹², a designated heritage asset of the highest significance, which is located within the Courtfield Conservation Area (the CCA). It is stated to date from 1881-84, designed by Ernest George and Peto for the celebrated dramatist W.S. Gilbert, of Gilbert and Sullivan fame, who lived there until 1889.
22. The property is an imposing, six storey, townhouse, constructed of red brick with stone dressings. Declared to have been loosely conceived as a pair with No 41, it forms part of a group of Grade II* listed buildings on the south side of Harrington Gardens, all designed by Ernest George and Peto¹³. A reference to the properties in the Survey of London states, 'No bolder or better preserved examples of this short lived style remain than these houses.'

¹⁰ Prepared by Mr De Keyzer, Director, Savills (UK) Limited.

¹¹ Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

¹² 39 Harrington Gardens SW7, National Heritage List for England, List Entry Number: 1080621.

¹³ 35 and 37; 39; 41; 43; and 45.

23. No 39's impressive front façade, incorporating a stepped gable and elaborate detailing, proudly addresses the street, indicating its high status. The hierarchy of the property's floors and accommodation within are clearly appreciable, with a concealed basement, grand tall windows to the ground and first floor, and three diminishing attic levels with increasingly simple detailing used for each upper floor. The interior of the building continues the high quality and opulence of the exterior, and includes many features of artistic interest which reflect its occupancy by W. S. Gilbert. Whilst there have been some alterations to the property to accommodate previous changes of use, its historic unified external and internal form and design have largely survived.
24. From the evidence before me, the special interest and significance of the listed building are mainly derived from its architectural and historic interests as a remarkable, and mostly intact, example of a late-19th century house in an embellished Queen Anne style; its associations with W.S. Gilbert, and Ernest George and Peto; its setting; and its value as part of an important group of well-preserved buildings of this style.
25. Important contributors in the above respects which are pertinent to the appeals, are the property's surviving historic fabric; extant features of interest, including historic panelling, fireplaces and fenestration; the legibility of its historic internal plan form; and the discernability of the architectural, social and functional hierarchy between the floors and the rooms/ spaces within them.

Effects

26. Sections 16(2) and 66(1) of the Act require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, when considering the impact of a proposed development on the significance of a designated heritage asset, Paragraph 212 of the Framework requires that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 213 goes on to state that, significance can be harmed or lost through the asset's alteration or destruction or from development within its setting and that this should have clear and convincing justification.
27. In assessing the effects of the proposal, the appellant has identified any perceived harm to significance and any perceived benefits at each floor and overall. Conclusions are then reached on the 'net' outcome, effectively undertaking an 'internal heritage balance' as referenced in the Palmer Judgment¹⁴.
28. However, it is not stipulated or implied in the relevant sections of the Act or the Framework, nor in pertinent settled caselaw, that a decision maker must carry out a 'net' or 'internal' balance of heritage-related benefits and harm as a self-contained exercise prior to a wider public benefit assessment as per the Framework. Nor was it undertaken by the previous Inspector in determining the appeals. Additionally, and importantly in my view, this particular method of assessing each floor and then overall could potentially result in double counting of harms and/or benefits.
29. For clarity, I have carried out a straightforward assessment of the proposed development and works in line with the requirements of the Act and the Framework, having regard to settled caselaw; namely whether or not they would preserve the

¹⁴ R. (Palmer) v Herefordshire Council [2016] EWCA Civ 1061 and City & Country (Palmer Judgement).

special interest and harm the significance of the listed building. The category and extent of any identified harm to significance is then decided, and balanced against the public benefits, including heritage benefits, of the scheme.

30. The proposed scheme of development and works is comprehensive and includes many elements. I have considered them in turn below.

Basement

31. At this level, the proposal involves alterations to the front (northern) half of the basement and the rear lightwell.
32. The removal of later partitions between rooms B.1 and B.17/ B.18 would restore the historic open layout of the 'kitchen' as shown on the 1896 Lower Ground Floor Drainage Plan¹⁵. Additionally, the restoration/repair of elements such as brickwork in the lightwell, glazed brick ceilings and the kitchen chimney breast and alcove, would represent positive interventions; and the new gate in yard 01 to match the existing gates would have a neutral effect. Had I been minded to allow the appeals, I am satisfied that the details of these elements and their outcomes could have been secured by appropriately worded conditions.
33. However, the creation of a more open plan space with bar, seating and lounge areas would result in a considerable loss of historic fabric, and a marked erosion of the historic plan form of the front part of the basement. It would diminish the legibility of the historic, largely cellular, layout and subsidiary service character of the space, as well as the authenticity of how it is experienced. In doing so, it would fundamentally disrupt the historic architectural, social and functional hierarchy of the floors within the building.
34. At the hearing the appellant highlighted that, 'erosion' of plan form is 'not the same as destruction'. Be that as it may, as plan form is a key aspect of the asset's intrinsic heritage merit, its alteration in the way proposed would clearly not preserve the building's special interests and would harm its significance. Piers, nibs and downstands are proposed to be retained to denote the historic arrangement of this space. However, given the extent and permanence of the loss of fabric and plan form, I am not persuaded that this approach would adequately mitigate or satisfactorily vindicate the identified adverse effects.
35. The appellant asserts that the alteration would enable a more effective and sustainable utilisation of the space. Nonetheless, no substantive evidence is before me which demonstrates that the existing layout 'constricts beneficial, compatible, use today' or that the proposed layout retains 'as much historic fabric with its evidential layers of history, layout and features as possible', to clearly and convincingly justify the resultant harm to the asset's significance¹⁶.
36. I am also mindful that these alterations are likely to require significant structural intervention, the detail of which is not before me, and which limits a thorough assessment of their effects. That said, I note the suggested condition¹⁷ and find that, had I been minded to allow the appeals, these details could have been secured by its imposition.

¹⁵ Appendix N of the Council's Statement of Case.

¹⁶ Paragraph 15, Listed Building Consent Historic England Advice Note 16, as cited by the appellant.

¹⁷ Condition (j) in the list of suggested conditions.

37. In terms of the vaults, the proposed creation of new openings, blocking up of existing openings or change to existing openings, would not undermine their intrinsic heritage value or how they are experienced and appreciated. I am satisfied that these changes would have a neutral effect and that, had I been minded to allow the appeals, the detail of these alterations and their effects could have been secured by appropriately worded conditions.
38. However, the proposed tanking of the vaulted spaces forms part of these appeals and, although it is reasonable to conclude that these spaces may require some form of damp-proofing treatment to facilitate their practical use, no evidence is before me to justify this proposed intervention. Nor is there any detail of the proposed tanking system to meaningfully assess its effects on the fabric and character of these spaces. I am not satisfied that it would be reasonable to seek to resolve this matter through the submission of further details secured by condition¹⁸, as I cannot be certain that any such details would be acceptable, which in turn would prevent the consent from being implemented.
39. Although a modern intervention, the proposed glazing of the lightwell would be lightweight and still allow the historic character of this space to be perceived. I am satisfied that it would have a neutral effect. Had I been minded to allow the appeals, the detail of this intervention and its outcome could have been secured by an appropriately worded condition.

Ground floor

40. The proposal at this level involves the replacement of tiles on the front steps, the repair/ restoration of features of interest and the installation of a free-standing 'servery' in the ground floor front room.
41. The existing red tiles on the front entrance steps are a modern detracting feature. I am satisfied that their proposed replacement with new mosaic tiles to match the existing style would preserve and enhance the special interest of the listed building, the detail and positive effects of which, had I been minded to allow the appeals, could have been secured by condition.
42. Additionally, the restoration/ repair of features of interest at this level, including the mosaic floor on the proposed guest WC, fireplaces and staircases, would be positive. Had I been minded to allow the appeals, these details and their associated benefits could have been secured by condition.
43. The ground floor is one of the building's principal floors and the front room (G.1) is stated to be the original dining room. The high quality and elaborate decoration of the room's ceiling, fireplace and overmantel, panelling and windows reflect its functional and social importance within the building. The introduction of a service utility in the form of a 'servery' within this space would obscure part of its distinctive wooden panelling, and undermine the status of the room and the authenticity of how it is experienced. I note Historic England's finding of harm in respect of this aspect of the proposal.
44. I acknowledge the proposed servery's modest size; its 'free standing' and 'reversible' form; its encasement in joinery to match the surrounding panelling; and its proposed connection to existing service runs. Nonetheless, its concealment in

¹⁸ Condition (p) in the list of suggested conditions.

this manner would be contrived and misleading to the onlooker; and although it may be reversible in practical terms, once installed, it is more than probable that it would not be removed. Even if I were to accept that it would be removed in the future, the identified harm would endure while it was in place.

First floor

45. At this level, the proposal involves the demolition of some partitions in rooms F.4/ F.7 and F.8; the installation of a jib door between rooms F.5 and F.6 including removal and making good of the boxed corner; the installation of plasterboard and partitions to allow for a shower and toilet in room F.5; and the repair/ restoration of features of interest.
46. The removal of the partitions in rooms F.4/ F.7 and F.8 would not unduly disrupt the intrinsic plan form of this floor and, along with the new jib door, including the removal and making good of a boxed corner, would have neutral effects. The reinstatement/ restoration of fireplaces at this level would be positive. Had I been minded to allow the appeals, the details of these elements and the identified outcomes could have been secured by condition.
47. Whilst room F.5 is not as elaborate as room F.6 in respect of features of interest or decorative detail, it is still one of the main rooms on this principal floor, and possesses important elements, including part height wooden panelling. The existing panelling would remain in situ and the partitions to be installed to create a shower and toilet would not be full height, allowing the historic dimensions of the room to remain legible to a degree. Also, as confirmed in the SoCG, the shower tray would be installed on top of the floor and without notching the floor joists.
48. Nevertheless, the submitted plans are not clear in terms of the detail of the proposed plasterboard which would be installed to protect the panelling, namely whether or not it would extend up to the full height of the room. Even if I accept that it would not be full height, which could be secured by condition¹⁹, it remains that it would conceal a large section of historic panelling. Moreover, of themselves, the shower and toilet units would lessen the volumetric integrity of this main room. Taken together, these interventions would not preserve the special interest of the listed building and its significance would be harmed. This finding of harm is in line with the appellant's own conclusions²⁰.

Second floor

49. The proposal at this level involves the removal of existing partitions and installation of new partitions to create four ensuite bathrooms; and the repair/ restoration of fireplaces.
50. The legibility of the historic plan form of this floor would not be harmfully diminished by the removal of the partitions in rooms S.2, S.3, S.4, S.7 and SC.2 and their replacement in a different layout to provide two ensuite bathrooms. Moreover, the insertion of partitions to allow for an ensuite bathroom in room S.1 would follow the line of a historic partition. On this basis, these interventions would have neutral effects. In addition, the restoration/ repair of the fireplaces on this floor would be beneficial. Had I been minded to allow the appeals, the details of these changes and the identified effects could have been secured by condition.

¹⁹ Condition (t) in the list of suggested conditions.

²⁰ Table at 5.6 of the Heritage Appeal Statement.

51. However, the proposed insertion of partitions and creation of an ensuite unit in room S.6 would disrupt the historic proportions of this space and result in a disconnect of the fireplace from the associated room it was built to serve. This would diminish the understanding and appreciation of the room's historic form and character within the building. I am not persuaded that this harmful effect would be adequately mitigated by the use of a glazed door to the ensuite. I note the Victorian Society's finding of harm in respect of this aspect of the proposal.
52. I acknowledge that there may have been more bathrooms in the building when created as a residence. I also recognise the lesser size and status of this floor and its rooms; the chosen position of the ensuite to minimise disruption; and the reversible nature of the insertion. Even so, there is no substantive evidence that historically there has been a bathroom in this location. The high quality, coherent and largely intact arrangement of the building and spaces within it, results in it being more sensitive to change. Similar to the proposed servery on the ground floor, although this intervention may be reversible in practical terms, once installed, it is more than probable that it would not be removed. Even if I were to accept that it would be removed in the future, the identified harm would endure while it was in place.

Third floor

53. At this level, the proposal involves removal of existing walls and partitions and installation of new partitions to create two ensuite bathrooms, and the repair/restoration of fireplaces.
54. The filling in of the existing opening in the partition between TC.1 and room T.7; the reduction of the double door to a single door in room T.5; the removal of the modern raised floor to the 1950s toilet block; and the restoration/ repair of the fireplaces at this level would be positive. In addition, the tucked in position of the proposed partitions and ensuites at this level would not unduly weaken the legibility of the historic plan form of rooms T.5 and T.6, and so would have a neutral effect. Had I been minded to allow the appeals, the details of these alterations and the identified outcomes could have been secured by condition.
55. The evidence indicates that, of the existing walls and partitions that form rooms T.1, T.2, T.3, T.4 and TC.2, only the East to West spine wall is a historic lath and plaster stud wall. As such, the loss of historic fabric resulting from their demolition would be minimal. Nevertheless, their removal would create a large open landing, which would be uncharacteristic of the more subsidiary size and nature of the third floor and the spaces within it. This would lessen the legibility of the historic plan form of this space and undermine the architectural, social and functional hierarchy of the floors within the building.
56. The formation of an opening between rooms T.6 and T.7 would reflect the spatial qualities of the room opposite and maintain nibs and a small downstand to evidence the historic position of a wall. Even so, it would lead to the additional loss of historic fabric, and would further compromise the historic plan form of this floor and its legibility. This would further diminish the discernability of the hierarchical arrangement of the building and the floors and room/ spaces within it. These findings of harm are reflected in the appellant's own conclusions²¹.

²¹ Table at 5.6 of the Heritage Appeal Statement.

Other elements of the proposal not referenced above

57. Elements not cited above which are included on the appellant's list as being part of the proposal, and elements not cited above but referenced in other parts of the evidence include: secondary glazing throughout the building; replacement/ refurbishment of doors; the installation of fan coil and condenser units; service runs; the installation of new ceilings/ ceiling finishes; and fire strategy proposals.
58. The reason for refusal in the Council's decision notices, and its written and oral evidence as part of the appeals, cite insufficient information and clarity in the submitted documentation to make a full assessment of the proposal. I share the Council's general concerns in this regard, and its specific concerns in relation to the tanking of the vaults as set out in my reasoning above.
59. It is imperative that proposals are accompanied by drawings and specifications of sufficient detail to illustrate and/or describe the proposed development and/or works in order to avoid any uncertainty over what is proposed, and to allow a robust assessment of any consequent effects, particularly given the Grade II* listed status of the building in this case.
60. That said, with regard to the other elements, had I been minded to allow the appeals, I am satisfied that conditions could have been crafted which would have adequately secured the retention of existing historic fabric, and details of the proposed units and methodologies of repair and/or installation. I note those listed in the suggested conditions as agreed by the parties on these matters.
61. Drawing all of the above together, there are elements of the proposal that would have beneficial and/or neutral effects, the detail of which could be secured by condition. At the very least, these would preserve the special interest of the listed building and not harm its significance. However, there are also elements of the proposal that would markedly weaken the asset's intrinsic heritage merit and so would not preserve its special interest and would harm its significance. There is also an element of the proposal, the tanking, upon which I have been unable to determine the effects, and it would not be reasonable to leave this matter to condition.

Public benefits balance

62. In undertaking an 'internal heritage balance' the appellant concludes that the scheme would not result in any residual harm to the appeal property and, overall, its significance would be preserved. On this basis, it is advanced that the public benefits balance set out in Paragraphs 214/215 of the Framework are not engaged.
63. However, in carrying out a straightforward assessment as set out above, I have found that elements of the proposal would result in material harm to the significance of this designated heritage asset. This is in respect of: the creation of an open plan space in the front part of the basement; the installation of a servery in room G.1; the installation of plasterboard and partitions to form a shower and toilet in room F.5; the installation of partitions to form a bathroom in room S.6; and the creation of a large landing area at third floor and opening between rooms T.6 and T.7. Consequently, the requirements of the Framework in this regard are engaged.
64. In finding harm to the significance of a designated heritage asset, the Framework and Planning Practice Guidance (the PPG) require the category of harm to be

‘explicitly identified’, and the extent of the harm within that category to be ‘clearly articulated’²². I have had regard to the fairly localised nature and extent of the identified harm in relation to the building as a whole, but also to the asset’s Grade II* listed status. I find that, cumulatively, the harm to significance in this instance would be a moderate level of less than substantial. Nonetheless, this does not equate to a less than substantial planning objection, especially where the statutory test has not been met, and is of considerable importance and weight. Together, these findings carry significant weight against the proposal.

65. Paragraph 215 of the Framework requires a finding of ‘less than substantial harm’ to be weighed against the public benefits of the proposal including, where appropriate, securing the asset’s optimum viable use. The PPG advises as to what is meant by the term public benefits²³, confirming that they should flow from the proposed development, and be of a nature or scale to be of benefit to the public at large and not just be a private benefit.
66. For the avoidance of doubt, elements of the scheme that would have a neutral effect and thus preserve the special interest of the asset and not harm its significance, weigh neither for nor against the proposal in the balance.
67. There would clearly be some public benefits, including heritage benefits, generated by the proposal. Temporary economic benefits would accrue through the investment into the property and the implementation phase of the scheme. Additionally, environmental benefits would be realised through improved thermal and energy efficiency of the property, primarily through the installation of secondary glazing.
68. However, these benefits are tempered by the scale of the proposal. Moreover, whilst Paragraph 167 of the Framework requires significant weight to be given to the need to support energy efficiency improvements to existing buildings, in the context of these appeals, policies regarding the conservation and enhancement of the historic environment should also be applied, and I am mindful of the harm to significance I have found.
69. Of the agreed heritage benefits set out at 8.1.9 of the SoCG, I concur that the following would constitute heritage benefits: the replacement of the tiles to the front entrance steps; reinstatement (in part) of historic plan form and restoration of glazed brick vaulting at basement level; reinstatement of historic fireplaces at first floor level and refurbishment of doors at basement and first floor levels. As set out below under Other Matters, the replacement of the tiles to the front entrance steps would also be of wider benefit in terms of the CCA and the settings of adjacent listed buildings. The installation of secondary glazing is also submitted to be a heritage benefit in assisting the preservation of the timber load bearing structure, oak panelling and other joinery and detailing. However, there is no substantive evidence before me which corroborates this claim.
70. The detail of these elements could be secured by appropriately worded conditions, to ensure that they would ‘flow’ from the proposal and achieve the beneficial outcomes advanced. Even so, of themselves, the ‘scale’ of these benefits would be

²² National Planning Policy Framework: Paragraphs 214/215; and Planning Practice Guidance: Paragraph: 018 Reference ID: 18a-018-20190723.

²³ Planning Practice Guidance, Paragraph: 020 Reference ID: 18a-020-20190723.

minor in relation to the listed building as a whole, and would be very minor in terms of the CCA and the settings of adjacent listed buildings.

71. Additional heritage benefits not in the SoCG are advanced by the appellant²⁴. These include restoration of the historic kitchen chimney breast and alcove at basement level; restoration and repair of brickwork to rear lightwell at basement level; minor alterations to walls/ floors on the first and third floors; and general sensitive restoration/ repair of historic fabric including fireplaces, staircases and mosaic floors (guest WC).
72. I note the Council's comments that some of these stated 'benefits' were not included in the original scheme and therefore not incorporated into the balance. However, the inclusion and detail of these elements could be secured by appropriately worded conditions, to ensure that they would 'flow' from the proposal and generate the benefits as submitted. Nonetheless, of themselves, the 'scale' of these individual benefits would be minor in relation to the listed building as a whole.
73. Taken together, the comprehensive refurbishment of the listed building as proposed has 'the potential' to secure what is agreed by the parties as the optimum viable use of the property as a single family dwelling. This would support the building's long term conservation and thus sustain the significance of this high grade asset, adjacent listed buildings and the CCA.
74. Collectively, these development and works constitute public benefits, including heritage benefits, which carry moderate weight in favour of the proposal.
75. Nonetheless, if I accepted the appellant's view on the status of the March 22 consent, I am very aware that, although the proposal may facilitate the optimum viable use of the property as a single family dwelling, no permission exists to realise this use. On the other hand, the March 22 consent so granted, demonstrates that a scheme which would allow for the building's use as a single family dwelling is attainable.
76. From the written and oral evidence before me and my observations on site, whilst some basic repairs and maintenance of the building's fabric are required, the property is not in a deleterious condition or 'at risk'. I am not convinced that the development and works, as proposed, are fundamentally necessary to facilitate the building's use as a single dwelling consistent with modern living standards.
77. I recognise the desire of the appellant to adapt the building to 'suit their needs', particularly in terms of its existing layout, facilities and services; and I have had regard to the representations by Mr De Keyzer and the appellant on this matter. However, heritage assets are required to be conserved in a manner appropriate to their significance. Whilst reference is made to the market expectations and/or demands concerning more open plan spaces and ensuite bathrooms in a building of this size and in this location, no substantive evidence is before me to support any of the assertions made in the written or oral evidence presented on this matter.
78. Nor am I persuaded that the only way of accruing some or all of the public benefits, including heritage benefits, advanced would be via the particular development and works proposed, with many of the heritage benefits identified not being contingent on the implementation of the parts of the scheme which I have found would cause

²⁴ 5.37 and 5.6 of Heritage Appeal Statement.

harm to the asset's significance. Whilst the stated benefits may be long lasting, so would the harm, especially where loss of historic fabric with its consequent effects is proposed.

79. The PPG confirms that harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused. However, this is 'provided the harm is minimised'²⁵, which I am not persuaded that it is in this instance.
80. Overall, whilst I give moderate weight to the identified public benefits, including heritage benefits, this is not sufficient to outweigh the significant weight I attach to the identified harm to the designated heritage asset.
81. At the hearing the appellant submitted that many of the elements of work identified as being harmful and/or deficient in detail, were capable of being dealt with by conditions; highlighting that the Framework and PPG's advice that conditions should be kept to a minimum does not limit their number where they meet the tests²⁶. Even so, as outlined above, in the context of any application/ appeal relating to a listed building, it is imperative that the information provided is sufficiently detailed and precise.
82. Whilst I have found that many of the details of the proposed development/ works could be satisfactorily secured by appropriately worded conditions, the proposed tanking within the basement relates to a matter of principle, which would not be reasonable to leave to condition(s). Moreover, the sheer number of conditions and the detail they cover may result in significant changes which would be better suited being addressed by fresh applications for planning permission²⁷ and listed building consent. This is particularly so in relation to applications/ appeals for listed building consent where consent is granted for specific works.
83. Given my conclusions that the effects of some elements of the development and/or works on the significance of the listed building would be beneficial or neutral, I have considered whether it would be appropriate to issue a split decision. However, whilst some of the individual elements of the proposed scheme may be physically severable from each other, to my mind they are not functionally severable. As such, a split decision would not be possible nor appropriate in this instance.

Other Matters

84. The property lies within the CCA. The character and appearance and thus special interest and significance of the CCA mainly stem from its high quality built residential environment, largely dating from around 1870 to 1900. It comprises wide streets, well-preserved late Victorian architecture displaying a common palette of materials, and formal green spaces. The resultant harmonious composition of the townscape imparts a strong sense of place. The appeal property makes an important and positive contribution to the character and appearance of the CCA.
85. In providing for the appropriate replacement of the tiles to the front steps and, overall, potentially facilitating the use of the property as a single family dwelling, the proposal would preserve and enhance the character and appearance of the CCA. As such, its significance would not be harmed. As the scheme relates to one

²⁵ Planning Practice Guidance: Paragraph: 015 Reference ID: 18a-015-20190723.

²⁶ National Planning Policy Framework: Paragraph 57.

²⁷ As referenced in the Planning Practice Guidance: Paragraph: 012 Reference ID: 21a-012-20140306.

property with limited external improvements, the 'enhancement' in the context of the CCA as a whole would be very minor. Consequently, even in attaching considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the CCA, this benefit would not outweigh the harm to significance I have identified above.

86. The property lies in proximity to other Grade II* listed buildings on the south side of Harrington Gardens²⁸. From the information before me the special interest and significance of these assets are largely derived from their historic and architectural interests, as well as their value as a group. However, they are also drawn, in part, from their respective urban townscape settings, which includes the site.
87. Similar to my conclusions above, in providing for the appropriate replacement of the tiles to the front steps and, overall, potentially facilitating the use of the property as a single family dwelling, the proposal would preserve the settings of these assets and go some way to improve the ability to appreciate their significance, particularly their group value. On this basis, their significance would not be harmed. As the scheme relates to one property with limited external improvements, any betterment in the ability to appreciate their significance would be very minor. Therefore, even in attaching considerable importance and weight to the desirability of preserving the settings of these listed buildings, this benefit would not outweigh the harm to significance I have identified above.
88. During the hearing both parties raised matters of unreasonable behaviour by the other party. These are not a matter for these decisions and are addressed in the associated costs decisions.

Overall Conclusion

89. I conclude that the proposal would fail to preserve the special architectural and historic interest of the Grade II* listed building, 39 Harrington Gardens SW7. There would be a moderate level of less than substantial harm to the significance of this designated heritage asset. This would not be outweighed by the public benefits, including heritage benefits, which would flow from the proposal, either in the scheme as submitted, or as modified by potential or suggested conditions.
90. The proposal would therefore fail to satisfy the requirements of sections 16(2) and 66(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also not accord with Policy CD5 of the Local Plan 2024 which, collectively, requires development and works to listed buildings to preserve their special architectural or historic interest and significance.
91. **Appeal A:** The proposed development conflicts with the development plan. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, Appeal A should be dismissed.
92. **Appeal B:** For the reasons given above, Appeal B should be dismissed.

F Cullen INSPECTOR

²⁸ 35 and 37 Harrington Gardens SW7, National Heritage List for England, List Entry Number: 1080620; 41 Harrington Gardens SW7, National Heritage List for England, List Entry Number: 1080622; 43 Harrington Gardens SW7, National Heritage List for England, List Entry Number: 1080623; and 45 Harrington Gardens SW7, National Heritage List for England, List Entry Number: 1080624.

APPEARANCES

FOR THE APPELLANT:

Mr J Woolf	Appellant and owner of 39 Harrington Gardens
Mr C Streeten	Barrister, Francis Taylor Buildings
Mrs V Scott	Planning Director, HCUK Group
Mr C Griffiths	Heritage Director, HCUK Group
Mr S Howitt	Managing Director, IDL Group Ltd
Mr N De Keyzer	Director, Savills (UK) Limited

FOR THE LOCAL PLANNING AUTHORITY:

Ms J Robinson	Team Leader, South Team
Ms C Collins	Senior Planning Officer
Ms P Graham	Heritage Consultant, Donald Insall

ADDITIONAL DOCUMENTS SUBMITTED PRIOR TO, AT, OR AFTER THE HEARING

1. Copy of Policy HC1 of the London Plan 2021.
2. Copies of the Officer Reports for PP/25/02643 and LB/25/02644, granted since the previous hearing.
3. Copies of Appeal Decisions APP/K5600/Y/25/3358638 (allowed), and APP/K5600/W/24/3354874 (dismissed), determined since the previous hearing.
4. Relevant Planning History including changes shown highlighted following Appellant's Revised Statement of Case.
5. List of plans and documents which were considered by the Local Planning Authority when considering the applications Planning Permission (PP/23/08430) and Listed Building Consent (LB/23/08431).
6. List of Original Application Drawings and List of Overlay Plans with updated revision number (by IDL: Architects).
7. Representation on behalf of the Freeholder (by Mr N De Keyzer, Director, Savills (UK) Limited).
8. Council's Statement of Case annotated by Appellant.
9. Coloured coded schedule accompanying Overlay Plans.

10. Daejan Properties Ltd v Secretary of State for Housing, Communities and Local Government and London Borough of Camden. Order AC-2025-LON-000526.
11. Without prejudice, list of suggested and agreed conditions (with explanation), received 20 October 2025.
12. Costs applications by both parties.