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## Appeal Decisions

Site visit made on 1 August, 2017

**by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17<sup>th</sup> August, 2017**

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### **Appeal A Ref: APP/A5840/W/17/3173957**

#### **2 Queens Road, London, SE15 2PT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Jose Raido Louca against the decision of the Council of the London Borough of Southwark.
  - The application Ref: 16/AP/3562 dated 30 August, 2016 was refused by notice dated 26 October, 2016.
  - The development proposed is demolition of existing garden wall to the rear of the Hotel at 2 Queens Road and relocation of service/drop off access to the Hotel; erection of a three storey apartment building comprising six dwellings set around a landscaped courtyard.
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### **Appeal B Ref: APP/A5840/Y/17/3173958**

#### **2 Queens Road, London SE15 2PT**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Jose Raido Louca against the decision of the Council of the London Borough of Southwark.
  - The application Ref: 16/AP/3563 dated 30 August, 2016 was refused by notice dated 26 October, 2016.
  - The works proposed are demolition of curtilage listed existing garden wall to the rear of the Hotel at 2 Queens Road and relocation of service/drop off access to the Hotel; erection of a three storey apartment building comprising six dwellings set around a landscaped courtyard.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Main Issues**

3. The main issues are:-
    - Whether the proposed works and development would preserve the listed building and adjacent listed buildings or their settings or any features of special architectural or historic interest they possess;
    - the effect of the development on the character and appearance of the area (Appeal A only);
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- the effect on the occupiers of neighbouring dwellings in respect of outlook and overlooking; and on future occupiers of the flats with respect to overlooking and external amenity space (Appeal A only).

## **Reasons**

### *Legal and Policy Background*

4. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant listed building consent, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses. Section 66(1) of the Act requires similar approach in considering whether to grant planning permission for development which affects a listed building or its setting.
5. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. It is also clear that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification and that the substantial harm to or loss of a Grade II listed building should be exceptional.
6. Paragraph 134 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

### *Listed buildings*

7. No 2 Queens Road is an early nineteenth century villa in a classical style, with a later flat roofed extension to the rear, the date of which is disputed by the parties, but appears from the planning history of the site to be of the late twentieth century. The appeal site is the remaining former garden area to this dwelling, and a survival and reminder of its original domestic use. It is bounded by a yellow London stock brick wall matching the yellow stock and Flemish bond brickwork of the main building, and which has been raised in height and altered at various points. The appeal site is currently used for ancillary activities such as parking and storage associated with the current hotel use of the main building.
8. No 2 is listed Grade II, and sits in a group of listed buildings including Nos 4 and 4a Queens Road, Queens House; the eighteenth century town houses at Nos 6, 8 and 10 Queens Road; and No 2 Woods Road. There are a further group of nineteenth century classically inspired villas to the south of the site on Consort Road, also listed. Together these buildings, and particularly the group of Queens Road houses and their rear gardens, form an important relict townscape of post-mediaeval residential development on the outskirts of the early settlement of Peckham, the historic centre of which has been obscured by development in the later nineteenth and twentieth centuries. Therefore the significance of No 2, beyond its detailing, workmanship and design as nineteenth century villa in a classical style, lies also in it being part of this early

surviving townscape, to which the appeal site makes a positive contribution as an original rear garden space.

9. The appeal development would consist of two blocks of three storeys, described as pavilions, sitting on either side of a roughly central garden courtyard, and linked on the Consort Road side by a staircase leading to access balconies and fronted by a polycarbonate screen set on a steel frame and open timber slats at first and second floor levels. The proposal would also incorporate the form of the existing wall at ground level, reconstructing it using original bricks where practicable.
10. The proposed buildings would cover the full width of the site, and sit on the back edge of the pavement. Thought has evidently been given to the design and materials of the buildings in order to break up the bulk and massing of the development. However, their height, exacerbated by the addition of a parapet at roof level, would bring the pavilions above the roof ridges of their immediate neighbours. It appears to me, additionally, that due to the presence of the staircase, framework and slatting, the screen wall would be likely to be read as at least a semi-solid frontage, linking the two pavilions. This, in combination with their footprint and height, would mean that they would together be read as a single large and relatively high block in the context of adjacent buildings.
11. The proposal would therefore introduce a significant built element into the rear garden of No 2 which would appear as overly bulky relation to No 2 itself and the other listed buildings along Queen's Road. By obscuring the original garden setting of the host building and creating an obtrusive element in the setting of the other listed buildings, it would as a consequence harm those settings.
12. I have considered the appellant's point that there are a variety of sizes of buildings in the area, including a tower block not far to the west of the site and the seven storey developments along Woods Road. However, it appears to me that it is not unusual in an urban area such as this that a listed building might have much larger buildings as a backdrop, in its wider setting. In this case the immediate settings of the listed buildings on Queens Road, including their garden areas, are an important part of the surviving, domestically-scaled townscape of the group. Insertion of an inappropriately sized and scaled building in this immediate setting would therefore harm the significance of both No 2 and others in the group.
13. Although the appellant has suggested that the view of the listed buildings from Queens Road would not be affected, the proposed building would be visible in oblique views of the site from Queens Road, from Consort Road, and from No 2 and its neighbours on Queens Road, including from and across their rear gardens. I conclude therefore that its siting would provide no mitigation of the harm caused.
14. I recognise, however, that the harm I have identified would be less than substantial harm in the terms meant by the Framework. It would, nonetheless, be serious and permanent, and as a consequence, although the appellant has indicated that benefits would arise from the proposal, including the provision of additional housing and the redevelopment of what is described as an unattractive yard area, they would be limited, and I do not consider that they would outweigh the appreciable and permanent nature of that harm. I conclude therefore that the requirements of the Framework and of the Act in this respect would not be met.

15. The wall to the rear of No 2 appears to incorporate at least some of the original garden wall to the dwelling. As such is it a feature and reminder of that original domestic use and has some interest as a curtilage listed structure. It appeared to me on examination to be in a reasonably good condition, and I noted no cracks or failing areas of brickwork. Although only a single brick thick, it is buttressed inside and out.
16. The Council has stated that due to the alterations to the wall and the incursion of later structures into the former garden area, the demolition of the wall would not preclude redevelopment of the appeal site in principle. However, the wall is a designated heritage asset which, although altered, makes some contribution to the interest of the principle listed building, and its loss should require clear and convincing justification.
17. The appellant has suggested that the wall is potentially unstable. However, in the absence of compelling structural evidence and in the light of the harm I have identified to the setting of the principle listed building arising from the development, I conclude that any benefit from replacing the wall, together with the other benefits identified by the appellant, do not outweigh its loss, and the demolition of the wall to accommodate this development is not therefore convincingly justified in the terms set out in the Framework.
18. Accordingly I conclude that the proposal would fail to preserve the special architectural or historic interest of this listed building and the settings of the listed buildings around, causing less than substantial harm to the significance of these heritage assets. In the absence of any public benefits to outweigh this harm I conclude the proposal would conflict with the Framework and policies 3.12 and 3.18 of the Southwark Plan 2007, which seek design which preserves or enhances the historic environment, and particularly the setting of listed buildings; and Strategic Policy 12 of the Core Strategy 2011 (the CS) which has the same intentions. Policy 3.15 of the Southwark Plan seeks proposals which would preserve or enhance the special interest or character or appearance of buildings of historical or architectural significance, and the proposal would conflict with this. Policy 7.4 of the London Plan 2016 seeks development which is informed by the surrounding historic environment, and the development would conflict with this.

#### *Character and appearance*

19. The Council has also given as a reason for refusal the effect of the proposal on the character and appearance of the area. For the reasons set out above, I conclude that the bulk, massing and scale of the development would have a harmful effect on the more modestly scaled listed buildings in the vicinity, and on the unlisted dwellings close to the site on Consort Street.
20. The proposal would therefore conflict with policy 3.13 of the Southwark Plan, which seeks development which gives consideration to the townscape, local context and character. It would also fail to comply with policy 7.6 of the London Plan, which requires architecture to make a positive contribution to the streetscape.

#### *Outlook, overlooking, and external amenity space*

21. The three storey blocks would be located directly on boundary of the rear garden to Nos 4 and 4a, and would incorporate two roof terraces. There would

- also be windows facing onto this boundary, and although they would be secondary ones they would open out from living/dining rooms. There would also be two balconies and one terrace, albeit set in from the elevation. These would together give rise to material additional overlooking of the garden.
22. Although the garden is long, and the blocks would be located towards the lower end of it, it is also open in character, and there would be nothing to impede views of the garden or the rear of the houses from the flats, particularly from the northernmost block. The garage structure at the bottom of the garden is only a single storey, and views over it into the garden would also be possible. The development would therefore lead to a harmful increase in overlooking of that garden over any existing effect arising from the hotel extension, with a commensurate effect on levels of privacy for the occupiers of Nos 4 and 4a.
23. Although the elevation facing the garden of Nos 4 and 4a would be modulated by the void over the courtyard garden, the blocks would nonetheless span a large proportion of the common boundary, and due to their height and closeness to the buildings on either side form a substantial built form on that boundary which would as a result create a sense of enclosure to and have an overbearing effect on outlook from the garden. This would cause harm to the occupiers of the dwellings.
24. The proposed flats would be entered from and face each other across the central courtyard area and void above at a relatively limited separation distance of less than ten metres. There would be windows of habitable rooms facing onto this area. As the Council has suggested, the use of obscured glazing for kitchen windows facing onto the courtyard/void would give rise to problems of outlook. As the proposal stands, therefore, the proximity between the flats would be likely to give rise to harmful levels of overlooking.
25. The courtyard area would be very small, bounded on two sides by private terraces, on one side by the high boundary wall, and on the other by the bin stores and cycle storage, and largely taken up by a raised bed. It is unlikely therefore to have any practical use as an outdoor amenity space. The ground floor flats would have a small terrace adjoining this, with the southernmost one having an additional terrace, although this would be almost entirely enclosed. Flats on the first floor would have a small terrace or balcony, although it would be set into the building. Notwithstanding the relatively generous roof terraces provided for flats on the second floor, therefore, I conclude that overall the outdoor amenity space would be small, and of limited practical benefit for the enjoyment of future occupiers of the flats, which would thereby harm their living conditions.
26. The development would therefore conflict with policy 3.2 of the Southwark Plan, which seeks to resist development which would cause loss of amenity to present and future occupiers in the surrounding area or on the application site, and with policy 3.11 of the same plan, which requires developments to ensure that they maximise the efficient use of land whilst protecting the amenity of neighbouring and future occupiers. Policy 3.13 of the Southwark Plan is clear that one aspect of good design is that a development should function well internally, and the appeal development would not meet this aspiration. Policy 4.2 of the Southwark Plan seeks residential development which achieves high standards of privacy and outlook and of suitable outdoor space, and the development would conflict with this.

27. Strategic policy 12 of the CS requires development to be appropriate to its context in height and design, and the development would not comply with this. Policy 7.4 of the London Plan seeks development which would make people feel comfortable in their surroundings, and the proposed flats would not achieve this. It would also fail to comply with policy 7.6 of the London Plan which seeks development which would not cause unacceptable harm to the amenity of adjoining residential buildings.

**Conclusion**

28. For the reasons given above, therefore, and taking into account all other matters raised, I conclude that both appeals should be dismissed.

*S J Buckingham*

INSPECTOR