



## Appeal Decision

Inquiry held on 30 April and 1 May 2019

Site visits made on 30 April and 2 May 2019

**by Jessica Graham BA(Hons) PgDipL**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 June 2019**

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**Appeal Ref: APP/N5660/C/18/3194753**

**89-93 Clapham Common South Side, London SW4 9DJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Euro Belvedere Hotel (Guernsey) Ltd against an enforcement notice issued by the Council of the London Borough of Lambeth.
- The enforcement notice was issued on 20 December 2017.
- The breach of planning control as alleged in the notice is without planning permission, the erection of
  - a) an unauthorised blue and white single storey extension with glass canopy to the rear of 91 Clapham Common South Side and an unauthorised single storey L-shaped extension to the rear of 89 Clapham Common South Side (“the unauthorised rear extensions”);
  - b) an unauthorised green wooden porch on the front of number 91 and 92 Clapham Common South Side and replacement of ground floor window with a wooden door at 91 Clapham Common South Side (“the unauthorised porch and door”);
  - c) unauthorised wooden trellising atop and around the edge of the single storey extensions to the rear of 89-91 Clapham Common South Side (“the unauthorised wooden trellising”).
- The requirements of the notice are to
  - a) remove the unauthorised rear extensions from the premises and reinstate the rear elevations and boundaries as existed prior to the breach of planning control;
  - b) remove the unauthorised porch and door from the premises and reinstate the affected elevations, groundwork and window as existed prior to the breach of planning control;
  - c) remove the unauthorised wooden trellising from the premises;
  - d) remove all associated waste and debris resulting from compliance with the above steps, from the premises.
- The period for compliance with the requirements is six months.
- The appeal was initially proceeding on the grounds set out in section 174(2)(a),(b),(c),(d),(f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.**

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### Procedural matters

1. All oral evidence to the inquiry was given on oath.
2. Numbers in square brackets are references to documents submitted at the inquiry, which are listed on the final page of this Decision Letter.

### *The grounds of appeal*

3. The appeal was originally brought on grounds (a),(b),(c),(d),(f) and (g).
4. However, before the inquiry opened, the Appellant accepted that the erection of the porch at nos. 91-92 was unlawful and agreed that it would be removed, and the Council accepted that the door at no. 91 was lawful and that reference to it should be deleted from the notice. The Appellant confirmed at the inquiry that as a consequence, the appeal on grounds (b) and (c) would no longer proceed. The Appellant also confirmed at the inquiry that grounds (f) and (g) of the appeal were withdrawn.
5. At the start of the inquiry, then, the position was that the appeal was proceeding on ground (a) in respect of each of the remaining alleged breaches of planning control (that is, the blue and white extension, the L-shaped extension and the trellis); and on ground (d) in respect of part of the L-shaped extension (the former shed) and part of the trellis (the section at No.89).
6. In the course of the inquiry, after hearing (for the first time) evidence provided by Mr Govindan for the Appellant, the Council conceded that the development described in the notice as the L-shaped extension consisted of two separate and severable structures (a former shed and a covered walkway), and that the former shed had achieved lawfulness through the passage of time. The Council also conceded that the section of trellis at No.89 had become lawful. On that basis, the Appellant withdrew the appeal on ground (d).

### *The terms of the notice*

7. Following these various changes in the parties' positions it is necessary to correct the enforcement notice so as to set out accurately the breaches of planning control now alleged.
8. I shall correct the description of the alleged breach to specify the covered walkway element of the L-shaped extension, but not the shed element, and clarify this by reference to the marked-up aerial photograph amended and agreed as part of the final Statement of Common Ground [10]; delete the reference to the door at No. 91; and clarify the extent of the unauthorised section of wooden trellising by reference to the second marked-up aerial photograph amended and agreed as part of the final Statement of Common Ground [11]. I shall amend the requirements of the notice to reflect these changes. In the interests of improved clarity I shall also correct the notice to make it clearer that the requirement to reinstate boundaries relates to the rear boundaries. I am satisfied that I can make these changes without injustice to either party.

### *The matters to be determined*

9. As a consequence of all this, the only ground of appeal that now remains for my determination is ground (a), which is that planning permission should be granted for the breaches of planning control stated in the notice (as corrected). These are the blue and white single-storey extension with glass canopy; the covered walkway that, together with the former shed, is part of the L-shaped extension; and the section of wooden trellis which is not lawful. The erection of the porch at nos. 91-92 is included in the breach, but the Appellant does not seek to argue that planning permission should be granted for this element.
10. Since each of the three pieces of development at issue are separate and distinct, and since my statutory powers include granting permission for the

whole “or any part” of the matters stated in the enforcement notice<sup>1</sup>, it will be appropriate to consider the impacts of each individually rather than solely on a collective basis.

### **The appeal on ground (a)**

11. The main issues for this ground of appeal are firstly, the impact of the development on the character and appearance of the area, and secondly, its effect on living conditions at neighbouring properties, with particular regard to visual impact.

#### *The impact on character and appearance*

##### Context

12. Nos. 90 – 93 were constructed as a four-storey terrace of four houses. Historic ordnance survey maps show that no. 89 was originally part of a similar terrace, and that these two terraces together occupied the full width of the land between Lessar Avenue and Lynette Avenue, fronting the Common over the road known as Clapham Common South Side. However, the northern part of the terrace containing no. 89 was bombed during the Second World War, and subsequently demolished. The block of flats known as Southside Court was constructed in its place, and no. 89 remained as a detached building until, in recent years, it was attached to no. 90 by a connecting flat-roofed structure.
13. The entirety of this composite structure, consisting of nos. 89 – 93, is now in lawful use as a hotel, and lies within the Clapham Conservation Area.
14. The northern part of the Conservation Area is centred on the historic village which formed the earliest settlement of Clapham (known as Clapham Old Town) and the suburban hinterland surrounding it, while the southern part has Clapham Common as its main focus, and includes the adjoining fringe development that gives definition to the open space of the Common. The appeal site is part of this fringe, which consists mainly of substantial residences and former residences dating from Clapham’s development, during the 19<sup>th</sup> Century, into a middle-class suburb. With the exception of Southside Court, and the similar post-war block of flats on the opposite side of Lessar Avenue, these buildings are characterised by the common use of traditional forms and materials, such as slate and brick.
15. Their rear elevations are less formal than their imposing frontages, and have accrued various extensions and accretions over the years; in some cases (including at the appeal site) these later additions have encroached over much of the original rear garden space. However it is important to bear in mind that it is not merely the street elevations of the properties fronting the Common that are included in the Conservation Area, but the full depth of their plots.
16. It is also relevant to note that while alterations and additions have been made to the buildings on the appeal site, these buildings remain clearly recognisable as part of the historic townscape that developed around the edge of the Common, and contribute to the general coherence of that late-Victorian townscape in terms of age, traditional forms, materials and detailing. In my judgment, the appeal site makes a positive contribution to the character and appearance of the area, as well as to the significance of the Clapham Conservation Area as a whole.

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<sup>1</sup> S.177(1)(a) of the Town and Country Planning Act 1990

17. The Development Plan for the area consists of the London Plan 2016, and the Lambeth Local Plan 2015. Policy 7.4 of the London Plan states that buildings should provide a high quality design response that (among other things) allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area, while Policy 7.8 of the London Plan provides that development affecting heritage assets should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
18. Policies Q5 and Q7 of the Lambeth Local Plan are supportive of development which is of a quality design that responds to positive aspects of the local context and historic character, and Policy Q11 states that proposals for the alteration or extension of buildings will generally be expected to have a design which positively responds to the original architecture, detailing and fenestration of the host building. Local Plan Policy Q22(a) deals specifically with development proposals affecting conservation areas. It states that they will be permitted where they preserve or enhance the character or appearance of conservation areas by “respecting and reinforcing the established, positive characteristics of the area in terms of the building line, siting, design, height, forms, materials, joinery, window detailing etc.”
19. The Council has also adopted a Supplementary Planning Document entitled *Building Alterations & Extensions* (2015), which advises that the use of closely matching materials will generally be sought for building alterations and extensions, and that this will be particularly important with work to heritage assets. It goes on to explain that the predominant traditional construction materials in Lambeth are brick, natural slates and clay tiles, and that when considering facing materials for extensions, the colour, texture and size should be taken into account to ensure a high-quality design-led approach that is appropriate for both the original building and wider area.

#### The blue and white single-storey extension

20. This extension consists of a Portacabin which has been positioned in the rear yard of no. 91, and partially encapsulated by a taller structure forming a corridor that attaches to the rear of no. 91. The external walls of the Portacabin have been painted blue, and a glass canopy and white plastic statuary has been attached to its southern elevation.
21. It is clear, and was acknowledged by the Appellant at the inquiry, that the extension has not been positively designed to respond to the original architecture, detailing and materials of the host buildings. Instead, a temporary structure that had already been on the appeal site for a number of years, initially for use as a store room and workshop, has been re-sited and incorporated as part of the fabric of the hotel in order to create two additional guest bedrooms.
22. The Appellant contends that the resulting structure is small, unobtrusive, and in keeping with the informal and generally built-up “backland” character of the rear of the appeal site. It is fair to note that the rear of the appeal site contains a variety of subservient additional structures, which are generally less formal and more functional in character and appearance than the front elevation; for example the weatherboarded shed-like element at first-floor level on the Lynette Avenue return, and the ground-floor extension with roof glazing that was allowed on appeal in 2014.<sup>2</sup> Additionally, as was noted by the Inspector

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<sup>2</sup> Ref: APP/N5660/A/14/2222109

who determined that 2014 appeal, the former rear gardens of nos. 89 – 93 are not recognisable as such, and have not been for some considerable time.

23. However, as the Council demonstrated by reference to photographic evidence, prior to the construction of the various forms of development that are the subject of the current enforcement notice the rear of the appeal site was not encumbered with particularly ill-conceived or poor quality additions. Rather, it had been extended in a reasonably considered fashion, using rectilinear forms, flat roofs of similar height, and neat infills on returns, presenting overall a coherent whole. The extension permitted on appeal in 2014 followed this pattern, being modest in size and constructed from London stock brick, in response to the materials used in the rear elevations of the original buildings.
24. In this context, I am not persuaded that the blue and white extension can rightly be considered unobtrusive, or in keeping with the existing character of the rear of the appeal site. The disparity in height between the roof of the Portacabin and the taller structure that partially encloses it, and the poor construction detailing, are at odds with the rear elevations of the existing buildings. Its siting alongside the rear extension permitted on appeal in 2014 means that public views from Lynette Avenue of the unobtrusive brick flank wall of that 2014 extension have been replaced with views of the re-purposed portacabin, bringing the built-up area of the appeal site closer to the public realm. The decorative treatment that has been applied to this structure does not disguise the fact that it is made from insubstantial materials associated with temporary buildings, rather than the traditional materials which are characteristic of this Conservation Area.
25. I note that the addition of the glass canopy and blue and white decoration serves to unify this new structure with the rear elevations of the single-storey extensions to nos. 92 and 93, and the flank wall of no. 1 Lynette Avenue, all of which have similar canopies and are the same colour blue. However, I do not consider this unifying effect beneficial. It serves rather to create the impression of a small, enclosed space divorced in design and appearance from the buildings it serves, while obscuring the character and function of that space.
26. It was suggested by the Appellant that were I to grant planning permission for this extension, a condition could be imposed requiring that it be re-painted in a more recessive colour to be agreed with the Council. Securing a less striking and discordant decorative treatment of the new structure, and potentially also the other sides of the yard, would render the extension less obtrusive in public views from Lynette Avenue. However, this would not address the adverse impacts caused by the discrepancy in height between the two elements of the new structure, and its poor detailing; further, the fact that it was constructed from insubstantial and non-traditional materials would remain apparent.
27. Taking all of this into account, I find that this extension has a harmful impact on the character and appearance of the appeal site, and thereby the Conservation Area in which it lies. The extension is not of a design which positively responds to the architecture and detailing of the host buildings on the appeal site, and nor is it sympathetic to their form and materials. It conflicts with Policy 7.8 of the London Plan, Policies Q5, Q7, Q11 and Q22 of the Lambeth Local Plan, and the advice contained in the SPD.

The covered walkway that forms part of the L-shaped extension

28. The shed to the rear of no. 89, which has been converted to provide two guest bedrooms, is now accepted by the Council to be lawful. It is connected to the

main building by a covered walkway, constructed by placing a roof over the formerly outdoor space which runs alongside the side return of no. 89 and then doglegs to run alongside the shed. It is this covered walkway which the enforcement notice (as amended) attacks.

29. In 2012, as evidenced in the photographs provided by the Clapham Southside Avenues Residents Association (CSARA), transparent plastic sheeting was used to create a canopy over this space and then in 2014, planning permission was granted on appeal for (among other things) the replacement of that canopy with a glass canopy of lightweight structure and design<sup>3</sup>. It is relevant to note that Policy Q11(e) of the Lambeth Local Plan deals specifically with infill extensions, and states that these should generally have a glazed, lightweight or contrasting character to differentiate them from those of the rear return on heritage assets.
30. Unlike the plastic canopy installed in 2012 and the glass canopy for which permission was granted in 2014, the structure which has now been built is neither glazed nor lightweight. It is a flat roof incorporating five protruding polycarbonate rooflights. The construction detailing, including the junctions with the existing buildings and the placement of eaves and guttering, is poor. The overall visual effect is of an unattractive, and purely functional, structure which serves to completely enclose all of the previously remaining open space to the rear of no. 89.
31. I appreciate that public views of this particular extension are extremely limited, and that it is some considerable time since the space to the rear of no. 89 has been used, or even been recognisable as, a garden. However, it is important to be clear that just because development is not generally visible to the public at large, that does not mean that it is not capable of affecting the character and appearance of its surroundings; nor is it absolved from the need to comply with the relevant policies of the Development Plan. While the lightweight, cantilevered glass canopy permitted in 2014 would have enabled a visual understanding of the former function of the area to the rear of no. 89 as open space, that understanding is lost now that the entirety of the area is fully enclosed. In my judgment, that has a harmful impact on the character of the appeal site.
32. In summary, the design of the covered walkway appears to have been informed solely by functional requirements, rather than having been drawn up as a considered and positive response to the architecture, detailing and materials of the existing buildings on the appeal site. In my judgment it does not preserve or enhance the character or appearance of the appeal site, but rather causes harm to both. I conclude that the covered walkway conflicts with Policy 7.8 of the London Plan, Policies Q5, Q7, Q11 and Q22 of the Lambeth Local Plan, and the advice contained in the SPD.

#### The wooden trellis

33. As discussed above, the Council now accepts that the trellis around the perimeter of the single-storey extension to the rear of no. 89 is lawful. The trellis attacked by the enforcement notice (as amended) is that which has been erected around the edge of the flat roof of the single-storey rear extension to nos. 90 and 91 (that is, the extension permitted on appeal in 2014) as identified in the photograph (amended as agreed at the inquiry) attached to the final Statement of Common Ground [11].

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<sup>3</sup> Ref: APP/N5660/A/14/2222109

34. I agree with the Council and local residents that the existing 2m high wooden trellis at no. 89 appears obtrusive and incongruous. The Appellant has provided two examples of timber fencing at first-floor level to the rear of other nearby buildings fronting Clapham Common South Side, but in each case the fencing is fairly limited in height, and appears to serve a functional purpose, unlike the apparently ornamental placement of the trellis at the appeal site. In any event, the erection of freestanding wooden trellis at first-floor level (as opposed to its attachment to a wall for use by climbing plants, or incorporation in garden structures) is neither characteristic of nor common within the Conservation Area.
35. The Appellant's point that the additional trellis at nos. 90 and 91 is in keeping with the rear of no. 89 is not, therefore, a consideration which in my view weighs in favour of permitting that addition: Policy 7.4 of the London Plan and Policies Q5, Q11 and Q22 all make it clear that the design of development should be a response to *positive* [my emphasis] aspects of the local context. Here, the additional trellis worsens the harmful visual impact of the existing trellis by increasing its expanse and bringing it closer to Lynette Avenue, thereby increasing its prominence in public views of the rear of the appeal site.
36. The Appellant contends that the additional trellis provides improved screening of views toward flues and other modern additions to the rear of the appeal site, and of the rear elevation of Southside Court. However, I saw at my site visit that the trellis (which is, by its nature, visually permeable) does little to screen services and other development to the rear of the appeal site. To a limited extent it distracts the eye from them, but since it does so by drawing attention instead to its own incongruous presence, I regard that as a harmful rather than a beneficial visual impact. No persuasive evidence was provided as to why Southside Court should require screening; while a more modern addition to the development fringing the Common than the other frontage buildings it is nevertheless part of the historic fabric of the Conservation Area, and its rear elevation is wholly in keeping with its character and appearance as a post-war block of flats.
37. I find that the trellis here at issue does not respect or reinforce the positive characteristics of the area, and is at odds with the character, detailing and materials of the original buildings on the appeal site. In my judgment it does not preserve or enhance the character or appearance of the area, but rather causes harm to both. I conclude that it conflicts with Policies 7.4 and 7.8 of the London Plan, and Policies Q5, Q11 and Q22 of the Lambeth Local Plan.

#### Conclusion on the first main issue

38. For the reasons set out above, I have found that the blue and white extension, the covered walkway and the additional trellis do not preserve or enhance the character or appearance of the appeal site and the Conservation Area within which it lies, and conflict with the relevant policies of the Development Plan.
39. Since I have found that the character and appearance of the appeal site make a positive contribution to the significance of the Conservation Area as a whole, it follows that the harm caused to the character and appearance of the appeal site results in harm to the significance of the Conservation Area. Given the considerable size of the Conservation Area, and the fact that it is composed from a variety of different elements, the harm caused to its significance by the development here at issue is less than substantial.

40. Nevertheless the Government's National Planning Policy Framework (NPPF), reflecting the statutory requirement<sup>4</sup> that decision-makers pay special attention to the desirability of preserving the character or appearance of the Conservation Area, advises that when considering the impact of development on the significance of a designated heritage asset great weight should be given to the asset's conservation. The NPPF advises that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance, and goes on to advise that where development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the development. I shall return to that consideration in the overall planning balance below.

*The impact on living conditions at nearby properties*

41. Policy Q2 of the Lambeth Local Plan aims to ensure that new development protects the amenity of existing and future occupants, neighbours and the visual amenity of the community as a whole. It is common ground between the Appellant and the Council that the development here at issue does not result in any harm to the amenities of neighbouring properties in terms of impact on daylight and sunlight levels, or noise from the operation of the hotel.
42. However the Council, and local residents, are concerned that the development is overbearing, creates a significant sense of enclosure, and causes significant harm to visual amenity from adjoining sites. In this regard, Local Plan Policy Q2 states that development will be supported if visual amenity from adjoining sites and from the public realm is not unacceptably compromised, and if adequate outlooks are provided, avoiding wherever possible any undue sense of enclosure.

*The blue and white extension*

43. This structure is located within a gated rear yard. It is visible, over the yard gates, in public views from Lynette Avenue, and I have set out above the reasons why I find that it has a harmful impact on the character and appearance of the area, and so conflicts with relevant Development Plan policies in that respect. However, given the limited extent of its public visibility, I do not consider the quantum of this harm to be so extensive as to have "unacceptably compromised" visual amenity from the public realm.
44. The blue and white extension is not visible from adjoining properties on the northern side of Lynette Avenue, but may be seen at an oblique angle from the front windows of some properties on the southern side of Lynette Avenue, and glimpses of its roof are possible from rear-facing windows of some properties on Lessar Avenue. I understand concerns that in these views, the presence of this structure increases the degree to which the area to the rear of the original buildings on the appeal site has been developed and built upon, but given the separation distances involved I conclude that this is not a change which has created any undue sense of enclosure at the properties from which the views can be obtained, or rendered the outlook from them less than adequate.

*The covered walkway*

45. The presence of the covered walkway similarly increases the extent of the built-up area of the appeal site in views from upper-floor rear-facing windows

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<sup>4</sup> Per s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

of adjoining properties on Lessar Avenue, including Southside Court. This creates the sense that the built form on the appeal site has moved closer to these adjoining properties, which has an adverse effect on their outlook. However, since the development in question is at ground-floor level and only visible in oblique downward views from rear windows, I do not consider this adverse effect to have resulted in significant harm to outlook; nor has it given rise to an undue sense of enclosure within these properties. The presence of the covered walkway would also be apparent in views from the rear garden of Southside Court, but at single-storey height, it is not a structure which appears overbearing in that context.

#### The wooden trellis

46. The additional trellis has been erected around the outer edge of the flat roof of the extension to the rear of nos. 90 and 91, permitted on appeal in 2014, and is clearly visible in views from the rear windows and gardens of properties on Lynette Avenue and Lessar Avenue, and (albeit to a more limited degree) in public views from both of these avenues.
47. As the Inspector who determined the 2014 appeal noted<sup>5</sup>, the single-storey height of the extension meant that the upper gap between the rear of the hotel and no. 1 Lynette Avenue would be preserved, so that the historic rear building envelope would continue to be defined and would be clearly legible. The 2m high wooden trellis encroaches into this gap, extending outward from the rear elevation of the original buildings on the appeal site to the rear boundary of the appeal site, and then running along that rear boundary, all at first-floor height. Together with the existing trellis around the roof of the extension at no. 89 – which also runs out to, and then along, the rear boundary at first-floor height – this draws attention to the fact that a large section of the former rear garden of the appeal site has now been entirely covered in built development, extending right out to the rear boundary.
48. The reason for erecting the trellis has not been provided, but whatever its purpose, its siting serves to visually enclose the space above the existing rear extensions at the appeal site. This results in an unduly dominant presence alongside the boundaries of the adjoining properties; its height, extent, location at first-floor level and incongruous appearance combine to provide it with considerable prominence in views from their rear windows and gardens. In my judgment this gives rise to an unwarranted sense of enclosure at those properties, and has a significant adverse impact on their outlook.
49. As with the blue and white extension, I have found that the visual impact of this additional trellis would be harmful to the character and appearance of the appeal site and surrounding area, but in the context of the limited public views available I do not consider the extent of that harm to be so great as to have “unacceptably compromised” visual amenity from the public realm.

#### Conclusion on the second main issue

50. I have found that neither the blue and white extension nor the covered walkway cause significant harm to living conditions at neighbouring properties. However, for the reasons set out above, I conclude that the trellis has an unacceptable impact on the outlook from adjoining properties on Lessar Avenue and Lynette Avenue, and so conflicts with the aims of Policy Q2 of the Lambeth Local Plan.

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<sup>5</sup> Ref APP/N5660/A/14/2222109 paragraph 7.

### *Other matters*

51. The Statement of Common Ground records that the Council and the Appellant agree the provision of additional hotel rooms will help to meet the GLA's target of 40,000 net additional hotel rooms within London by 2036. The Appellant contends that this is a material consideration which should weigh in favour of granting planning permission for the development. I turn to the question of the overall planning balance below.

### *The planning balance*

52. I have found that the blue and white extension has a harmful impact on the character and appearance of the appeal site, and the Conservation Area in which it lies. This extension is not of a design which positively responds to the architecture and detailing of the host buildings on the appeal site, and nor is it sympathetic to their form and materials. It conflicts with Policy 7.8 of the London Plan, Policies Q5, Q7, Q11 and Q22 of the Lambeth Local Plan, and the advice contained in the SPD.

53. The only relevant material consideration that has been identified as capable of carrying positive weight in favour of granting planning permission for this extension is the fact that doing so would result in the (authorised) creation of two hotel rooms, which would help to meet the GLA's target for additional hotel rooms. I have some concerns that, given the representations made by local residents about parking and bin-storage problems arising from the existing level of hotel use at the appeal site, the provision of additional rooms might not be an unalloyed benefit. But even if I were to set aside those concerns and regard the provision of two extra hotel rooms as wholly positive, I do not consider this would come anywhere close to outweighing the considerable harm caused by this extension to the character and appearance of the area.

54. As to the covered walkway, I have found it does not preserve or enhance the character or appearance of the appeal site, but rather causes harm to both; it conflicts with Policy 7.8 of the London Plan, Policies Q5, Q7, Q11 and Q22 of the Lambeth Local Plan, and the advice contained in the SPD. Again, the only identified relevant material consideration capable of carrying positive weight in favour of granting planning permission for this extension is that doing so would result in the (authorised) creation of two hotel rooms.

55. However, those two guest rooms are housed wholly within the former shed (now lawful) that forms the other part of the L-shaped extension. The undisputed evidence of the Appellant is that the conversion of the shed to hotel accommodation took place several years before the covered walkway was constructed, and that the shed and the walkway are two separate and severable structures. It was not argued that the use of the two hotel rooms within the former shed would be discontinued if the walkway had to be removed, but even if it were the case that the provision of these two rooms was dependent on the retention of the covered walkway and, as above, I were to regard that provision as a wholly positive contribution toward the GLA target, I do not consider it a benefit that would come anywhere close to outweighing the harmful impact of this particular development.

56. I have found that the additional trellis does not respect or reinforce the positive characteristics of the area, is at odds with the character, detailing and materials of the original buildings on the appeal site, and so causes harm to the character and appearance of the area. In addition I have found that it gives rise to an unwarranted sense of enclosure at adjoining properties, and has a

significant adverse impact on their outlook. It therefore conflicts with Policies 7.4 and 7.8 of the London Plan, and Policies Q2, Q5, Q11 and Q22 of the Lambeth Local Plan. The trellis does not contribute to the provision of any hotel rooms, and no other material considerations have been identified that would weigh in its favour.

57. I conclude that whether the blue and white extension, the covered walkway and the trellis are considered individually or collectively, there are no public benefits of sufficient weight to justify the harm that would be caused to the significance of a designated heritage asset, and no material considerations of sufficient weight to overcome the identified conflict with Development Plan policies.

### *Conclusion*

58. For the reasons set out above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections, and refuse to grant planning permission on the deemed application.

### **Formal Decision**

59. It is directed that the enforcement notice be corrected by:

- at paragraph 3(a), after the words "...91 Clapham Common South Side", deleting the remainder of that sub-paragraph in its entirety and replacing it with the following text: "identified in red on the attached Plan, and an unauthorised covered walkway forming part of a single-storey L-shaped extension to the rear of 89 Clapham Common South Side, identified in blue on the attached Photograph 1 ("the unauthorised rear extensions")";
- at paragraph 3(b), deleting the words "...and replacement of ground floor window with a wooden door at 91 Clapham Common South Side ("the unauthorised porch and door")" and replacing them with the words "("the unauthorised porch")";
- at paragraph 3(c), after the existing wording, adding the words "identified in blue on the attached Photograph 2";
- at paragraph 5(a), between the words "rear elevations and..." and "...boundaries", inserting the word "rear";
- at paragraph 5(b), deleting the words "and door", and for the words "elevations, groundwork and window" substituting the words "elevations and groundwork"; and
- substituting the plan and the two photographs (Photograph 1 and Photograph 2) attached to this decision for the plan attached to the enforcement notice.

Subject to those corrections 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 1990 Act as amended.

*Jessica Graham*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT

|                                      |  |
|--------------------------------------|--|
| Mr R Warren, Queen's Counsel         | Instructed by Avison Young                             |
| He called:                           |  |
| Mr I Froneman B.Arch.Stud ACIFA IHBC | Director, Heritage Collective UK Ltd                   |
| Mr P Govindan                        | Construction & Services Manager,<br>London Hotel Group |
| Mr R Quelch Dip BA(Hons) MRTPI       | Director, Avison Young                                 |

### FOR THE LOCAL PLANNING AUTHORITY

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|-------------------------------|---|
| Mr G Atkinson, of Counsel     | Instructed by the Council's Head of Law |
| He called:                    |   |
| Mr D Black BSc MSc MRTPI IHBC | Conservation & Urban Design Team Leader |
| Mr L Sawyer BSc               | Senior Planning Enforcement Officer     |

### INTERESTED PERSONS

|             |  |
|-------------|--|
| Ms V Sackur | Local Resident, and representative of the Clapham<br>Southside Avenues Residents Association |
| Ms F Bates  | Local Resident   |
| Mr A Wood   | Local Resident   |

## DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Copy of appearances and opening points made on behalf of the Appellant
- 2 Copy of opening submissions made on behalf of the Council
- 3 Copy of the Council's letter, dated 8 April 2019, notifying interested persons of the time and venue for the inquiry
- 4 Photograph submitted by Ms Sackur, marked up as taken on 10 June 2016 from No. 6 Lessar Avenue
- 5 Two photographs submitted by Ms Sackur, both marked up as taken on 13 April 2019 from No. 4 Lessar Avenue
- 6 Final version of the Statement of Common Ground (SoCG), incorporating agreed amendments to the suggested re-wording of the enforcement notice
- 7 Colour copies of the photos attached as Appendices II and III of the SoCG
- 8 Copy of closing submissions made on behalf of the Council
- 9 Copy of closing points made on behalf of the Appellant

## DOCUMENTS SUBMITTED (AS REQUESTED BY THE INSPECTOR AT THE INQUIRY) AFTER THE INQUIRY CLOSED

- 10 Electronic copy of marked-up photo (with agreed amendments) forming Appendix II of the final SOCG
- 11 Electronic copy of marked-up photo (with agreed amendments) forming Appendix III of the final SOCG



## Plan

This is the plan referred to in my decision dated: 10 June 2019

by **Jessica Graham BA(Hons) PgDipL**

**Land at: 89-93 Clapham Common South Side, London SW4 9DJ**

**Reference: APP/N5660/C/18/3194753**

DO NOT SCALE





## Photograph 1

This is the photograph referred to as Photograph 1 in my decision dated: 10 June 2019

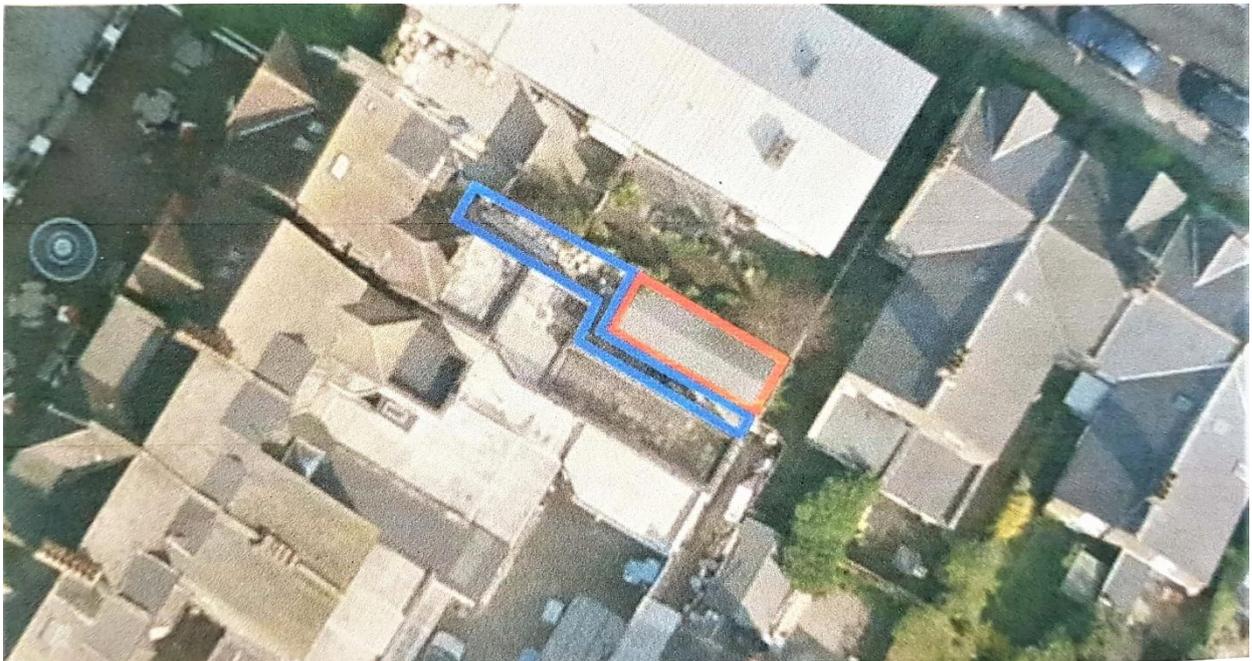
by **Jessica Graham BA(Hons) PgDipL**

**Land at: 89-93 Clapham Common South Side, London SW4 9DJ**

**Reference: APP/N5660/C/18/3194753**

DO NOT SCALE

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## Photograph 2

This is the photograph referred to as Photograph 2 in my decision dated: 10 June 2019

by **Jessica Graham BA(Hons) PgDipL**

**Land at: 89-93 Clapham Common South Side, London SW4 9DJ**

**Reference: APP/N5660/C/18/3194753**

DO NOT SCALE

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