



Appeal Decisions

Site visit made on 10 October 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Appeal A: APP/P5870/W/23/3317268

3 Park Lane, Cheam, Sutton SM3 8BN

- 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 Subu Nanthakumar, Tankerford Ltd against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/01408, dated 1 August 2022, was refused by notice dated 19 December 2022.
 - The development proposed is 'office to residential conversion to form a one bedroom (2p) dwelling house, with new two storey rear extension, alterations and refurbishment works'.
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Appeal B: APP/P5870/Y/23/3317270

3 Park Lane, Cheam, Sutton SM3 8BN

- 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 Subu Nanthakumar, Tankerford Ltd against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2022/01409, dated 1 August 2022, was refused by notice dated 19 December 2022.
 - The works proposed are 'office to residential conversion to form a one bedroom (2p) dwelling house, with new two storey rear extension, alterations and refurbishment works'.
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As the appeals relate to a listed building within a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act').
4. In addition to harm to the appeal building and Cheam Village Conservation Area ('the CA'), the Council's fourth reason for refusal of the Appeal A application alleges harm to the setting of other listed buildings. However, its evidence does not clearly specify which other listed buildings it is concerned about. From the evidence before me, I consider that it is only the setting of the attached listed building at 5 Park Lane that may be affected. I have determined Appeal A accordingly.

5. Notwithstanding extracts of policies of the Sutton Local Plan 2018 ('the SLP') referring to Areas of Special Local Character quoted by the Council, the evidence before me does not indicate that the appeal site is within such an area. I have not therefore considered these policy requirements further.

Main Issues

6. The main issues are:
- i) whether or not the proposal would preserve the special architectural and historic interest of the Grade II listed building '3 Park Lane' (Ref: 1183749), the effect of the proposal on the setting of the Grade II listed building 5 Park Lane (Ref: 1065661), and the effect of the proposal on the character or appearance of the Cheam Village Conservation Area;
 - ii) whether or not living conditions for future occupiers of the site would be acceptable with regard to natural light and the provision of internal space;
 - iii) whether or not the proposal would make adequate provision to reduce carbon emissions; and
 - iv) the effect of the proposal on the operation of 3A Park Lane having regard to effects of noise and disturbance on the living conditions of future occupiers of the site and the agent of change principle.

Reasons

Heritage Assets

7. The appeal building is located on Park Lane towards the centre of the Cheam Village CA. It was vacant at the time of my visit but has most recently been used as offices. The proposals include alterations to the building and its conversion to a one-bedroom dwelling.

3 Park Lane

8. The appeal building was listed in 1971. It comprises a two-storey structure with a hipped Welsh slate roof and tarred weatherboard exterior which the listing description dates to the early to mid-19th century. A single-story 19th century shopfront with an entrance door projects forward of the front of the building beneath a sash window. A yard shared with 1 and 3A Park Lane provides access to a further door to the side of the building and also to the first-floor level via a modern external stair up to an enclosed platform which sits raised on timber posts at the rear of the building. The appellant's Heritage Statement ('the HS') notes that the appeal building may historically have formed part of 5 Park Lane to which it is attached, highlighting that the 1840 tithe award records No 5 as being occupied as a 'shop, house and buildings', and that it was not until a 1933 map that they were shown as separate properties.
9. Insofar as it relates to these appeals, I find the special interest of the listed building to be primarily associated with its age and the external appearance including the relatively simple form and the hipped tiled roof, weatherboarding and timber sash windows which are typical of the local vernacular architectural style. Interest is also derived from its historic use as a shop or workshop attached to 5 Park Lane. In this regard, a shared yard which wraps around to the rear of No 5 and which would facilitate servicing contributes to the special interest of the building, albeit that I note historic maps in the HS indicating that

there has at times been development on the rear of the site.

10. The proposed rear extension would replace the existing raised platform and external stairs. The HS suggests that the raised platform dates to between 1933 and 1956 and I saw that it includes multi-paned glazing around the upper part and a lean-to roof of corrugated plastic that are unsympathetic to the historic architectural qualities of the host building. The external stair down from the platform is modern and projects at an awkward angle from the building. In addition, the HS identifies that the plate glass ground-floor window beneath the raised platform post-dates the sashes to the front and side of the building and I agree with the appellant that it appears disproportionately large relative to these other windows. These elements in their current condition detract from the special interest of the building. However, it is unclear from the information before me whether and how access was historically provided to the first floor level and so I cannot be sure that the stair and raised platform do not reflect an earlier arrangement.
11. Furthermore, while the fabric of the raised platform and stair may not be historic, there would be some loss of historic fabric to link the rear extension to the building and to accommodate the stairs. The extension would also obscure a greater extent of the rear elevation of the building than the existing structures, albeit that I appreciate that a significant proportion of the affected ground-floor comprises the non-historic window. The degree of historic fabric affected would be small, but there would nevertheless be some consequent erosion of the integrity and authenticity of the building.
12. In addition, the open external stair and unenclosed undercroft beneath the raised platform give these features a fairly lightweight appearance relative to the host building which moderates their visual impact. The proposed rear extension would be of lower height, but of slightly larger footprint than the raised platform. Although it would not extend so far from the building as the external stair, its two-storey form would result in a significantly increased impression of overall bulk and mass adjoining the rear of the building. This impression would be further exacerbated by the blank walls which would provide for a solid mass of built form. Notwithstanding the generally subordinate scale of the extension, I find that its resulting greater physical presence would more noticeably alter the proportions of the listed building than the existing development at the rear, distorting its footprint and simple plan form.
13. For these reasons, I find that the replacement rear extension would cause harm to the historic architectural form and integrity of the building and would erode its legibility with detriment to the special architectural and historic interest that it possesses.
14. The proposal also includes internal alterations to the building. In this respect, the HS asserts that the interior of the building holds nothing of historic interest with the layout and fittings all dating from late 20th century office use. However, I saw that while the internal dividing walls were partly modern partition, the ground floor wall includes some sections of brickwork of similar stretcher bond to the inner skin visible along the western side wall. The first-floor partition also adjoins a stub projection that ties into the western side wall. The walls are centrally positioned within the symmetrical form of the building. Based on my observations and in the absence of any firm evidence to

the contrary, I find the Council's case that the position of the walls appears to follow the building's historic plan form to be persuasive. On that basis, the current internal layout affords some understanding of the historic arrangement of the building and thereby makes some contribution to the special interest of the building, irrespective of the modern nature of the partitions.

15. In itself, the removal of the unsympathetic desk partitions would be a benefit of the proposal. However, the wholesale removal of the existing internal walls and the repositioning of walls to the bedroom and kitchen/dining/living room closer to the rear of the building would fundamentally alter the historic layout which contributes to the building's special interest. The use of stud walls may mean that the new elements of the layout would technically be reversible, but it seems to me that there would be little realistic prospect of reversion once the building had been occupied as a dwelling given the effect that this would have on the accommodation. In this context, the modifications would be likely to be permanent and I find that the changes to the internal layout would cause some further erosion of the legibility of the listed building with detriment to its special interest.
16. The submitted plans and Design and Access Statement additionally indicate that there would be repairs to the roof of the building and the refurbishment and repair of weatherboarding, the shop frontage and windows which the appellant argues would be benefits of the proposal. However, I share the concerns raised by the Council's Urban Design Officer that there is little detail of these proposals and the methodologies to be used. There is also no detail to show the secondary glazing which is proposed to be installed to the ground and first-floor front and first-floor side windows. I further note that the HS does not discuss the addition of secondary glazing or assess in any detail the works to the roof, weatherboarding and windows. As a consequence, I consider that there is insufficient information to determine the effect of these alterations and I can have little confidence that the special interest of the building would be preserved, much less enhanced as a result. In this context, I find that the suggested benefits to the building of repair and refurbishment have not been substantiated.
17. As well as the modifications to the listed building itself, the submitted plans show a bin enclosure for the dwelling alongside a fence running between the rear of the extension and 3A Park Lane. I acknowledge that the established use of the appeal building could reasonably be expected to require bins, but the indicated bin store would formalise the use of this part of the site. In my assessment, it would sit awkwardly beyond the rear of the appeal building and would be a visually obtrusive addition that would distract from the host listed building. The indicated fence would also subdivide the service yard, and while the appellant suggested at appeal stage that the space to the rear of the building would be shared, the Design and Access Statement indicates that it would serve 3A Park Lane and access would only be possible from the interior of that building. As part of the current shared yard which would allow servicing, the space to the rear of the site provides some context for the historic use of the building which contributes to its special interest. Noting the lack of access from the appeal building and absence of any windows to the proposed rear elevation facing towards the space, I find that the relationship between the building and this part of its curtilage would be eroded to the further detriment of its special interest.

18. The Council has also highlighted that there would be a requirement for cycle storage to serve the dwelling which would place a further demand on the available space within the site. The appellant has suggested that the precise location of the bin store and cycle store could be secured by a planning condition, and I note conditions suggested by the Council. However, the external space within the red line boundary of the appeal site is relatively constrained, and forms part of the immediate setting of the listed building at 5 Park Lane as well as the appeal building. In the absence of any details of an alternative layout to consider, I can have little confidence that effects on heritage assets would be acceptable. In view of this uncertainty and mindful of the statutory duties under the Act, I am not satisfied that it would be appropriate to defer consideration of the layout of the external areas to planning conditions to resolve.

19. For these reasons, I find that the proposal would harm the special architectural and historic interest of the listed building and I give this harm considerable importance and weight.

5 Park Lane

20. 5 Park Lane was listed in 1971 and is a two-storey dwelling with a painted weatherboard exterior. The listing description identifies that the front part of the building dates to the 18th century but that the core may be earlier.

21. I have already noted that the appeal building is physically attached to 5 Park Lane and seems to have historically been a shop that formed part of this property. Both buildings include similar weatherboard exteriors, albeit some of the sections to No 5 are white rather than black, and though they are of different form, the more modest height and width of the appeal building gives an impression of subservience to the dwelling at No 5. In addition, a section of the rear elevation of No 5 with a ground and first-floor window faces onto the service yard at the rear of the appeal building, reinforcing the historic connection between the pair. Insofar as it relates to these appeals, I find that the appeal site is an integral part of the setting of 5 Park Lane, and that its historic use and relationship to the dwelling contributes to the understanding and significance of 5 Park Lane as a listed building.

22. The proposed rear extension would result in a slight increase in the bulk and mass of the rear part of the appeal building close to No 5. However, it would be no closer than the existing external stair and despite the effect on the overall form of the appeal building, I find that there would be no tangible harm to the setting or significance of No 5. Indeed, the obstruction to views of the rear of No 5 by the external stair would be removed.

23. However, the shared connection of 3 and 5 Park Lane with the service yard space at their rear would be eroded through the subdivision of this space to be accessible only from 3A Park Lane. The lack of windows that might maintain some sense of connection between the rear of the appeal building and the space would exacerbate the effect. As a consequence, I consider that the ability to appreciate and understand the historic relationship between 3 and 5 Park Lane would be harmed. The bin store would also be a discordant feature projecting incongruously out into the service yard. I find for these reasons that the proposal would harm the setting and thus fail to preserve the special interest of 5 Park Lane.

Cheam Village Conservation Area

24. The CA has a mixed character, including open space at Cheam Park, a commercial core including varied uses and a diverse range of building styles and ages. Park Lane is a narrow and lightly-trafficked street, lined to one side by two-storey buildings in an irregular but tightly spaced layout. These factors provide for a somewhat rural appearance to the street and the generally similar scale of the building and common features such as external weatherboarding and sash windows further provide for an attractive sense of cohesion. The commercial appearance of the appeal building distinguishes it from the residential use typical to most of the buildings on the street. Nevertheless, its similar architectural style and external materials provide for a visual connection with its neighbours and its simple form sits comfortably as part of the group. I find that it contributes positively to the character and appearance of this part of the CA. Given the above, I find the significance of the CA, insofar as it relates to these appeals, to be primarily associated with the cohesive appearance and architecture of the buildings and the overall quality of the historic townscape.
25. Although the proposed rear extension would alter the proportions of the host building, I observed varied rear projections to other nearby buildings and its modest scale would not be conspicuous in the CA. Potential views of the extension would also be very limited, and where it would be seen, it would replace the existing raised platform which includes a corrugated plastic roof at odds with the traditional materials of nearby buildings and the external stair which projects from the building at an awkward angle. In this context, I find that the replacement rear extension would preserve the character and appearance of the CA, thus preserving its significance.
26. However, the alterations to the wider site would result in the subdivision of the service yard and a bin store projecting awkwardly behind the building. There are existing gates to the entrance of the service yard, but views of the bin store would be likely to be possible when the gates were open. There would also be views from surrounding properties. In these views, the proposal would detract from the appearance of this part of the CA thus failing to preserve its significance. While the effect would be localised, I nevertheless give this harm considerable importance and weight.

Conclusion on Heritage Assets

27. The National Planning Policy Framework 2023 ('the Framework') advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation.
28. I have found that the proposed rear extension and internal alterations would harm the special architectural and historic interest of the listed building. The alterations to the service yard and provision of the bin store would further harm its special interest, the setting of 5 Park Lane and the appearance of the CA.
29. The harm to the listed building would be less than substantial in the terms of the Framework bearing in mind its extent. The degree of harm to the CA and to 5 Park Lane would be more modest given the contribution that the site currently makes to their overall significance and the localised effect of the proposal. Bearing this in mind, the harm in each case would be less than substantial.

30. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. I return to this matter below.

Living Conditions

31. The appellant accepts that the proposed dwelling would have an internal area around 6.5sqm smaller than the minimum gross internal floor area required by Policy D6 of the London Plan 2021 ('the LP') for a one-bedroom two-person dwelling with two storeys. It would also have an internal height of around 2.4m on the ground floor and around 2.3m on the first floor and so would fail to achieve the minimum floor to ceiling height of 2.5m for at least 75% of the gross internal area which is also a requirement of Policy D6.
32. That said, the bedroom and main kitchen/dining/living room would be of reasonable size and the regular layout of the building and rooms within it would provide for practical spaces. The shortfalls in internal height would also be modest, and I further note that the bedroom and main living space would be larger than the existing rooms to the front of the building which did not feel to me to be unduly cramped or confined despite the ceiling heights.
33. However, the bedroom would be served by a north-facing window of relatively modest size. Sunlight to this window would be restricted by its orientation, and though there were clear skies and bright sunshine at the time of my visit, the interior of the existing first-floor room was a little gloomy. In part, this may be a factor of the current condition of the glazing, but the bedroom would extend deeper away from the window than the existing room. As a result and in the absence of an assessment of daylight and sunlight within the dwelling, I am not confident that the window would provide for suitable levels of natural light to the bedroom. In reaching this view, I note the appellant's comments that the window is larger than windows to bedrooms of neighbouring dwellings. However, that is not in itself compelling evidence demonstrating a satisfactory standard of natural light. Furthermore, I have no details to show that the rooms to the neighbouring dwellings are of similar depth and layout to the proposed dwelling and it is therefore unclear if levels of light to the spaces would be comparable.
34. For the reasons above, I find that the shortfalls in the internal area and height of the dwelling would have a modest effect on the living conditions of future occupiers. However, it has not been demonstrated that there would be suitable natural light to the bedroom and irrespective of the provision of light to the ground-floor accommodation, these factors in combination mean that I am not satisfied that the dwelling would provide suitably high quality living standards for future occupiers overall. I appreciate that scope for alterations to the existing building as part of its conversion to a dwelling would be affected by its listed status. Nevertheless, the proposal would conflict with Policy D6 of the LP and Policy 9 of the Sutton Local Plan 2018 ('the SLP') insofar as they together broadly seek high quality housing and homes that are of adequate size and fit for purpose.

Carbon Emissions

35. Policy 31 of the SLP includes a requirement that applications for new dwellings are supported by an Energy Statement including 'as-designed' Building

Regulations Part L outputs to demonstrate how relevant targets for reducing carbon dioxide emissions will be met. There is no such Energy Statement before me.

36. The appellant suggests that details could be secured by planning condition and would draw upon guidance produced by Historic England on retrofit and energy efficiency in historic buildings. However, the appellant has also commented with reference to the listed status of the appeal building that it may not be possible to achieve objectives relating to energy use and reductions in carbon emissions. It is unclear from the currently submitted information what, if any, potential measures have been considered and the degree of improvements that could be delivered. These factors limit my confidence that any Energy Statement submitted would meet the targets required by Policy 31 of the SLP. Any shortfall against targets and whether or not that shortfall would be justified is in my view something that should properly be considered as part of the overall planning balance. Furthermore, it seems to me that any measures to meet targets could affect the special interest and significance of the listed building and may require listed building consent in their own right. For these reasons, I am not satisfied that it would be appropriate to defer the consideration of these matters to a planning condition.

37. I therefore conclude that the proposal would conflict with Policy 31 of the SLP.

Operation of 3A Park Lane – Agent of Change

38. Policy D13 of the LP sets out the 'Agent of Change' principle which places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on proposed new noise-sensitive development. It includes a requirement that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.

39. The proposed dwelling would be a noise-sensitive use and would be in fairly close proximity to 3A Park Lane which adjoins the rear of the site. At the time of my visit, No 3A was vacant but the Council indicates that it is understood to be in industrial use with workshop and office space and I acknowledge that such uses could generate some noise. However, there are existing residential uses nearby, including at 5 Park Lane which I saw includes a rear projection extending up to the side of No 3A. It also has rear windows that face No 3A at a similar distance to the main rear elevation of the appeal building which would not include any windows. Based on my observations, I consider that effects of operations at No 3A on occupiers of the appeal building would be little different to those experienced by existing residents, and there is no substantive evidence before me to demonstrate that these residents are subject to unacceptable noise or disturbance.

40. Having regard to the position of existing residential uses nearby, I conclude that the proposal would not place unreasonable restrictions on the operation of No 3A over and above those that would already exist to warrant resisting the proposal on the agent of change principle. It would therefore accord with LP Policy D13. I am also satisfied that there would not be unacceptable noise or disturbance to occupiers of the site so as to cause further detriment to their living conditions.

Planning Balance

41. I have found that the proposal would fail to preserve the special architectural and historic interest of 3 Park Lane, and 5 Park Lane through changes to its setting. It would also fail to preserve the significance of the Cheam Village CA. The harm caused to the significance of these heritage assets would in each case be less than substantial, but nevertheless is of considerable importance and weight.
42. The removal of the external stair, disproportionate ground-floor window and unsympathetic materials to the raised platform at the rear of the listed building would provide some enhancement to its appearance. However, the magnitude and extent of the improvements would in my assessment be less than the harm that I have identified would be caused by the other aspects of the proposal and would not overcome that harm. I have also found that there is insufficient information to substantiate the appellant's assertions that the proposed works would lead to improvements to the exterior of the building. The weight that I give this as a public benefit is therefore limited and it does not outweigh the harm that would be caused.
43. The proposal would provide a new dwelling that would contribute to the supply of housing locally. However, the contribution would be very small and the extent of the benefit would be further tempered given my findings that it has not been demonstrated that the dwelling would offer suitably high quality living standards to future occupiers.
44. The Framework highlights the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The appellant asserts that the previous office occupiers have not been good custodians of the building, and that the proposed conversion to a dwelling would secure the optimum viable use of the building.
45. However and irrespective of the actions of previous occupiers, the optimum viable use of a listed building is often that for which it was constructed. I note that the building in this case is on the fringe of the commercial core of the village outside of the main shopping frontage and lacks dedicated parking. Nevertheless, there is no substantive evidence before me demonstrating the extent to which demand from commercial occupiers consistent with the historic use of the building has been explored or properly tested. Nor is there compelling evidence indicating that a failure to maintain the building would be an inevitable outcome under a continued commercial use having regard to the nature of likely occupiers, or indeed that a commercial occupier would necessarily require alterations to the building.
46. Furthermore, I have been unable to determine that the proposal would offer suitable living standards to future occupiers. Despite the appellant's suggestion that many first time homeowners or renters would happily occupy the dwelling, this introduces some doubt in my mind that the dwelling would be a viable use without further changes to the building in future that could affect its special interest.
47. The Council has not raised an objection in principle to the change of use of the existing office to a dwelling and I have no compelling reason to find differently. However, having regard to the above factors, the evidence before me falls short of indicating that the current proposal would be the most appropriate way

to secure the long-term future of the building, or to best preserve historic fabric as the appellant asserts.

48. Furthermore, the Framework sets out that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Even if I were fully satisfied that the optimum viable use of the building should be residential, it is unclear from the evidence that the alterations to the interior of the building in terms of the complete removal of the historic layout or the indicated bin store and subdivision of the service yard would be necessary to support this use. There is also insufficient information to determine the effects of modifications including the installation of secondary glazing to the dwelling. In that context, I find that there is not a clear and convincing justification for the proposal.
49. Given the above, I consider that the public benefits of the proposal would be modest and would not outweigh the great weight to be given to the harm that would be caused.
50. I therefore conclude that the proposal would fail to preserve the special interest of the Grade II listed '3 Park Lane' and the Grade II listed '5 Park Lane' owing to the changes to its setting. It would also fail to preserve the significance of the Cheam Village CA. As a consequence, the proposal would fail to satisfy the requirements of the Act and the Framework. There would also be conflict with Policy HC1 of the LP and Policies 28 and 30 of the SLP insofar as they together broadly seek high quality design and development that respects and positively responds to its context and local character and that conserves or enhances heritage assets and their significance.
51. In relation to Appeal A, I have additionally found that it has not been satisfactorily demonstrated that living conditions for future occupiers of the site would be acceptable, nor has it been demonstrated that there would be adequate provision to reduce carbon emissions. These matters would not be outweighed by the benefits of the proposal. The Appeal A development would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.

Conclusion

52. For the reasons given above, I conclude that both appeals should be dismissed.

J Bowyer

INSPECTOR