



Appeal Decisions

Site visit made on 21 September 2023

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal A Ref: APP/N5660/W/23/3324278

Archway House, 21 Clapham Common North Side, Lambeth, London SW4 0RQ

- 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 Sam Fenton-Whittet against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 23/01219/FUL, dated 14 April 2023, was refused by notice dated 9 June 2023.
 - The development proposed is described as:
 1. The construction of a traditionally designed and detailed glasshouse/conservatory within the rear garden. This will be detached from the rear/north façade.
 2. Landscaping of the rear garden with a terrace, including lowered ground levels, immediately to the rear, north façade of the property.
 3. Lowering the basement floor level by 1no. step with the installation of a breathable, glasscrete floor.
 4. Installation of a passenger lift between the lower ground and ground floors to connect the kitchen with the principal, ground floor dining room.
 5. Various alterations and repairs to the interiors.
 6. Internal reconfiguration of the second-floor dressing and bathroom layout involving removal of modern late C20th partitions.
 7. Various repairs and minor changes to the exterior all undertaken in a like-for-like, traditional manner.
 8. New dormer windows are proposed to replace the modern, unsympathetic existing dormers. New, traditionally designed timber vehicular gates to the arch is proposed for security reasons.
 9. Works to install new heating, hot and cold-water pipework, and wiring/data to replace the existing systems.
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Appeal B Ref: APP/N5660/Y/23/3320318

Archway House, 21 Clapham Common North Side, Lambeth, London SW4 0RQ

- 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 Sam Fenton-Whittet against the decision of the Council of the London Borough of Lambeth.
- The application Ref 22/1640/LB, dated 6 May 2022, was refused by notice dated 20 October 2022.
- The works proposed are:
 1. The construction of a traditionally designed and detailed glasshouse/conservatory within the rear garden.
 2. Landscaping of the rear garden with a terrace, including lowered ground levels, immediately to the rear, north façade of the property.
 3. Lowering the basement floor level by 1no. step with the installation of a breathable,

- glasscrete floor (subject to further trials and investigations).
4. Installation of a passenger lift between the lower ground and ground floors to connect the kitchen with the principal, ground floor dining room.
 5. Various alterations and repairs to the interiors throughout the property.
 6. Internal reconfiguration of the second-floor dressing and bathroom layout involving removal of modern late C20th partitions.
 7. Various repairs and minor changes to the exterior. New dormer windows are proposed to replace the modern, unsympathetic existing dormers. New, traditionally designed timber vehicular gates to the arch is proposed for security reasons.
 8. Works to install new heating, hot and cold-water pipework and wiring.
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Decisions

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

Procedural Matters

3. The application form for the application for planning permission (Appeal A) simply states: "Please refer to Planning Covering Letter, Design Access and Heritage Statement, as well as other supporting documents". I have therefore distilled the description of development in the header above from those documents. In doing so, I have simplified it by removing additional commentary that was either subjective in nature and/or superfluous to that purpose.
4. I have taken the description of works for the application for Listed Building Consent (Appeal B) from the application form. I note that the description in the Council's decision notice appears to relate to proposed works and the associated application for Listed Building Consent.
5. In relation to Appeal B, the works proposal includes the lowering of the basement floor level by 1no. step with the installation of a breathable, glasscrete floor. However, the full description of the proposal indicates that those proposed works are subject to further trials and investigations.
6. It is imperative that the description of works is accurate and unambiguous to avoid doubt about what is proposed. The uncertainty generates serious reservations as to whether this element of the proposal could even be implemented. These matters are highly undesirable in general terms, but even more so given the building's Grade II* listed status, a designated heritage asset of the highest significance.
7. Taking the above into account, I am unable to properly assess whether this element of the proposal would preserve the Grade II* listed building known as Archway House, or any features of special architectural or historic interest which it possesses. Consequently, I cannot reasonably determine whether this element of the proposal would meet the requirements of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). In other circumstances, I would have reverted to the parties to seek their views as to whether the matter could be addressed with the submission of further details/information. However, for the reason that I now turn to, that is not an option open to me.

8. As I understand it, applications for planning permission and Listed Building Consent for one scheme were submitted in May 2022 (Council Refs: 22/01639/FUL and 22/01640/LB). An appeal was made against the refusal of Listed Building Consent (APP/N5660/Y/23/3320318 = Appeal B) but not against the refusal of planning permission. I will refer to this as the '2022 Scheme'.
9. Then, in April 2023, applications for planning permission and Listed Building Consent were submitted for a revised scheme (Council Refs: 23/01219/FUL and 23/01220/LB). An appeal was made against the refusal of planning permission (APP/N5660/W/23/3324278 = Appeal A) but not against the refusal of Listed Building Consent. I will refer to this as the '2023 Scheme'.
10. The appellant points out that the reasons for refusal cited in relation to application ref. 23/01219/FUL for the 2023 Scheme, which forms the basis of Appeal A, demonstrate that most of the previous reasons for refusal cited in the refusal of Listed Building Consent for the 2022 Scheme have been addressed in that submission. The appellant therefore wishes that the appeal against the refusal of Listed Building Consent in relation to the 2022 Scheme (Appeal B) is considered taking into account several revisions to the proposals that seek to address the Council's reasons for refusing the attendant application for planning permission (22/01639/FUL). In other words, that Appeal B is considered as the same proposal as Appeal A.
11. The difficulty with the appellant's proposition is that the 2022 Scheme and the 2023 Scheme are different proposals. The 'Procedural Guide – Planning Appeals – England' advises that the appeal process should not be used to evolve a scheme. Consequently, in most cases, appeals are determined on the basis of the scheme and the plans which were before the Local Planning Authority when it made its decision.
12. This point was considered by the High Court in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin). This judgement refined the long-standing principles set out in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]* on which the appellant relies. In *Holborn Studios*, the court held that the acceptance or otherwise of plans submitted during the appeal process should be dictated by two tests which must be considered separately: 1) a substantive test and 2) a procedural test.
13. In *Holborn Studios*, the High Court held that the substantive test is whether the proposed amendment(s) involves a "substantial difference" or a "fundamental change" to the application. If so, the court held that if the proposed amendments would ultimately result in a "different application", then it is unlikely that the amendment could be considered as part of the appeal. The court also held that it is possible that a series of small, incremental proposed amendments to a scheme could result in a "substantial difference" or a "fundamental change".
14. The procedural test is whether the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the appeal and, if so, whether such unfairness could be cured, for example by re-consultation. On this point the judge in *Holborn Studios* said "In considering whether it is unfair not to re-consult, in my judgment it is necessary to consider whether not doing so deprives those who were entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of

the changes proposed, they may have wanted to make on the application as amended". The judge went on to say that "I do not accept that the test for whether re-consultation is required if an amendment is proposed to an application for planning permission is whether it involves a "fundamental change" and involves a "substantial difference" to the application or whether it results in a development that is in substance different from that applied for ... In my judgment it is preferable to ask what fairness requires in the circumstances."

15. I have set out the judgment in *Holborn Studios* in some detail because it has dictated my approach to this case. Put simply, the amendments to the 2022 Scheme resulted in a significant narrowing of the reasons for refusal in the 2023 Scheme. On any analysis, the amendments to the 2022 Scheme to arrive at the 2023 Scheme must by definition have constituted a "substantial difference" or a "fundamental change" to the application in order to have overcome most of the previous concerns of the Council. I recognise that these amendments involved a series of small, incremental amendments to the scheme but, adopting the approach advocated in *Holborn Studios*, that nonetheless resulted in a "substantial difference" or a "fundamental change" to the overall scheme. It follows that the substantive test has not been met.
16. I recognise that the statutory consultation was undertaken on the application(s) for the 2023 Scheme. In response, Historic England authorised the Council to determine the application for Listed Building Consent as it thought fit¹. None of the other statutory consultees responded. However, some of the plans/drawings that are before me contain amendments identified in red text which are indicated as being 'amendments to drawings for planning appeal'². There is no evidence before me that any of the statutory consultees were notified of these latest amendments, or were even aware of them. In that context, it is not the acceptability or otherwise of those amendments that is the issue: the issue is a procedural one, namely that the statutory consultees have not had the opportunity to comment on those amendments.
17. Two points flow from this. Firstly, the same point made above, namely that when it comes to applications relating to listed buildings there should be no doubt about what is proposed. That is simply not the case here.
18. The other point relates to the procedural test for the purposes of *Holborn Studios*. In this case, the statutory consultees were not notified of the amendments proposed at appeal stage. To my mind, that goes beyond procedural unfairness: it results in the process being statutorily flawed.
19. Furthermore, there is before me a representation from a local resident objecting to the proposal on points of detail. It is apparent that the author of that representation is aware of the appeal being submitted but makes no reference to the amendments at appeal stage. Given the way in which the appeals have been presented, including a series of incremental amendments shown on numerous drawings (some of which are not immediately obvious), I cannot be confident that the author of that representation is fully aware of the "different application" comprised by the 2023 Scheme.

¹ In the interest of clarity, that response was in relation to the proposal as originally submitted.

² For example, Drawing No. 9800 P (0) 0101 Proposed Ground Floor Plan, in which one at of least three amendments highlighted in red text relates to historic wrought iron gates being repaired and repointed.

20. Consequently, in the particular circumstances of this case, in my judgment the principle of fairness requires that the amendments should not be accepted. It follows that the procedural test has not been met either.
21. This leaves me with one appeal relating the 2022 Scheme (Appeal B) and one appeal relating the 2023 Scheme (Appeal A). I will determine Appeal A and Appeal B on the basis of the plans and information submitted with the applications and used in any consultation on those applications. In the interests of clarity, this means that I will not take into account any of the post-appeal amendments shown on the plans in red text. I fully recognise that my Decision in relation to Appeal B will not reflect the appellant's current proposals. However, it is imperative that the appeal process is fair and transparent to all parties. The procedural complexity and uncertainty caused by the appellant having submitted two different schemes for the same site and seeking to evolve the proposals through the appeal process is not consistent with the principles of fairness and transparency.
22. In relation to Appeal A, the description of the development/works proposed on the application form is designed to cover both planning permission and Listed Building Consent. It follows that some of the works listed on the Planning Covering Letter and other documents do not constitute development for the purposes of Section 55(1) of the Town and Country Planning Act 1990³. The development that falls into that category does not require planning permission. Nevertheless, the planning application before me does include those developments and I must therefore consider them in relation to Appeal A.
23. In considering the description of the development/works set out in the Planning Covering Letter and other documents, it seems to me that those which are more likely than not to require planning permission are the glasshouse/conservatory within the rear garden and the lowering of the ground levels immediately to the rear of the north façade of the property⁴. I will focus my consideration of Appeal A on those elements of the proposal.
24. The appellant acknowledges that what is described as a 'free-standing' conservatory requires planning permission but considers that it does not require Listed Building Consent. On my reading of the application drawings, the conservatory would appear to be attached to the boundary wall. Having regard to sections 1(5) and 7(1) of the Act, it is therefore more likely than not that the works would require Listed Building Consent. The lowering of ground levels is an engineering operation wholly independent of the fabric of the listed building. It is more likely than not that the lowering of the ground levels would not require Listed Building Consent. Nevertheless, the lowering of the ground levels forms part of the works applied for and I have therefore considered it in relation to Appeal B⁵.
25. In both the Decision Notice for the refusal of planning permission (Ref 23/01219/FUL) and that for the refusal of Listed Building Consent (Ref 22/1640/LB), the Council refers to the Clapham Common Conservation Area. However, the plan of the conservation provided with the appeal questionnaires

³ For example, although described as new dormers, the proposal is to reconfigure the existing dormer windows with additional detailing. I am not convinced, on the balance of probability, that the proposed changes constitute development requiring planning permission.

⁴ There is no appeal under Section 195 of the Town and Country Planning Act 1990 before me, and this should therefore not be taken as a formal determination that planning permission is not required.

⁵ As above, this should not be taken as a formal determination that Listed Building Consent is not required.

is titled the Clapham Conservation Area (CA1). I will adopt the latter description in this Decision.

Reasons

26. Archway House forms part of a Grade II* Listed Building and is adjacent to a Grade II* listed building, both within the Clapham Conservation Area. In determining these appeals, in accordance with sections 16(2), 66(1) and 72(1) of the Act (as appropriate) I have had special regard to the desirability of preserving the buildings or their setting or any features of special architectural or historic interest which they possess and paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Additionally, in line with paragraph 205 of the National Planning Policy Framework (the Framework), I have given 'great weight' to the assets' conservation.

Special interest and significance: listed buildings

27. The List Description indicates that the appeal property forms part of a substantial terrace dating to circa 1720⁶. The building is three storeys with basements but of varying widths, constructed with brown bricks and parapet. The appeal property (No.21) features seven windows and a panelled parapet, with a dormer.
28. The special interest and significance of the building derives, in part, from being a speculative build of substantial urban scale for what was, at the time of its construction, essentially a large village. The building retains a good degree of historic integrity, notwithstanding later wide-ranging alterations and repairs following war damage. Insofar as relevant to this appeal, Archway House is unique in the group in that it incorporates a carriage archway and may have become double-fronted since its initial conception. Notwithstanding some localised repairs, the historic and architectural integrity of the listed building is reflected in the front and rear elevations of the building. Of particular relevance to these appeals, the legibility of the historic architectural features of the rear elevation facilitates a clear understanding of the hierarchy and status differentiation between floors.
29. Additionally, the extensive and mature gardens to the individual properties which form the listed building provide space within which to experience the asset. Whilst these have changed over time, the physical, visual and functional relationships between the houses and their gardens means that this immediate setting to the listed building contributes in a meaningful and positive way to the asset's significance.
30. The forecourt walls, railings and gates are separately listed as Grade II*⁷. The special interest and significance of the building derives, in part, as a largely intact example of typical boundary treatment for the period associated with the listed terrace. Its historic form along with its traditional method of construction and materials make important contributions in these regards and in providing the context and setting for the Grade II* listed building with which they are associated.

⁶ Statutory Address: 12-21, Clapham Common North Side SW4 List Entry Number: 1080493

⁷ Statutory Address: Forecourt walls, railings and gates to 12-21 (Consecutive), Clapham Common North Side SW4 List Entry Number: 1080494

Special interest and significance: conservation area

31. The Clapham Conservation Area is centred on Clapham Common. The special interest and significance of the conservation area is derived, in part, from a collection of historic buildings dating to the 18th and 19th Centuries that surround the Common. Insofar as relevant to this appeal, Archway House and the terrace of which it forms a part were formative in the development of Clapham from its earlier existence as a large village. These properties therefore provide an important part of the narrative regarding the development of Clapham as a settlement. Moreover, the prominent position of these buildings on the north side of Clapham Common ensures that they are clearly visible in public views from large parts of the conservation area. The composition and detailing of these buildings are readily apparent in these views, and the terrace (including the appeal property) make a significant contribution to the character and appearance of the Clapham Conservation Area.
32. The presence of trees also makes a significant contribution to the character and appearance of this conservation area. Not only do trees form an intrinsic part of Clapham Common itself, trees also provide a verdant context for many of the important buildings that contribute to the character and appearance of the Clapham Conservation Area.

Appeal A

33. The main issues are whether the proposal would:
- preserve a Grade II* listed building, 12-21 Clapham Common North Side SW4, or its setting or any features of special architectural or historic interest which it possesses.
 - harm the health of and/or prejudice the retention of trees on the site, and
 - preserve or enhance the character or appearance of the Clapham Conservation Area.

Listed building

34. The Council's formal Decision Notice cites the following elements in the reasons for refusal:
- the proposed glasshouse/conservatory within the rear garden
 - the proposed lowering of the ground levels.

It is convenient to consider those elements of the proposal separately here, before concluding against the Act, the Framework and the development plan later.

Glasshouse/conservatory within the rear garden

35. The proposed glasshouse/conservatory would be sited only some 4.25m away from the rear elevation of the building. The rear elevation of the building is largely unaltered, apart from what appear to be some localised repairs to the parapet. The rear elevation is well ordered. On the east side of this elevation, the window openings reflect the hierarchy of the rooms that they serve. On the west side, the positions of the windows generally follow the main staircase for the house.

36. By reason of its size, height and proximity to the main building, the proposed glasshouse/conservatory would impede views of the rear elevation of the building, particularly the well-ordered east half. This would detract from the legibility of the building as a whole, and in particular would detract from the present clear understanding of the hierarchy and status differentiation between floors on the east side of the rear elevation. I acknowledge that views of the rear elevation are not readily obtained from the public domain. However, listed buildings are safeguarded for their inherent architectural and historic interest, which the proposed development would harm.
37. The proposal would result in the introduction of a substantial structure and patio area within this part of the immediate setting of the listed building. This would affect the authenticity of how the heritage asset is experienced and lessen the positive contribution that the asset's setting makes to its significance, as well as reducing the ability to appreciate that significance.
38. The proposed glasshouse/conservatory would be sited adjacent to the east boundary wall of the property. It would also be close to and easily accessible from the kitchen at basement level that is on this side of the house. The siting of the proposed glasshouse/conservatory would therefore be entirely logical from the perspective of the occupiers of the building. But the siting of the proposed glasshouse/conservatory has no logic in terms of the designated asset itself. Consequently, the proposed glasshouse/conservatory would appear wholly incongruous in relation to the listed building.
39. Furthermore, an Ordnance Survey map from 1869 shows that any outbuildings that were present to the rear of this terrace were located at the end of the gardens and as far as possible from the host property. This is still the situation to this day such that, to the rear of this listed terrace, it is the established pattern. The siting of the proposed glasshouse/conservatory does not follow that established pattern, and that is harmful to the special interest and significance of the listed building as a whole.
40. The appellant points out that there is no historical evidence to suggest that outbuildings should be located at the end of a rear garden. The appellant goes on to give examples throughout the 18th and early 19th centuries where garden buildings were adjoined to houses in the form of closets, closet wings or out-offices. I do not dispute that evidence. However, as the Council points out, the proposal is not for a closet: it is for an outbuilding. The salient point, moreover, is that in relation to this particular terrace and these listed buildings the evidence shows that the established pattern was to site outbuildings at the very end of the gardens and away from the main house. The established pattern in relation to the particular listed terrace of which the appeal property forms a part takes precedence over what may have occurred on other properties and in other locations.
41. The appellant considers that the structure is subservient to the main house in terms of size and scale and is also of an appropriate design using appropriate materials. The appellant's view is supported with research by and the professional opinion of consultants with extensive experience of heritage conservation in general and buildings of this period in particular. I have had careful regard to that evidence. However, irrespective of its design and the materials from which it is constructed, by reason of size and scale in such close proximity to and within the immediate setting of the asset, for the reasons set

out above the proposed glasshouse/conservatory would be harmful to the special interest and significance of the listed building.

Lowering of the ground levels

42. The lowering of the ground levels immediately to the rear of the north façade of the property would increase the extent of the rear elevation of the building that would be visible from the garden. The entirety of the rear elevation would then be visible. This in turn would facilitate a better understanding of the hierarchy of the rooms within the listed building and the way in which the building historically functioned. The lowering of the ground level would also increase the prominence of the lower ground rear windows and doors but, for the reasons set out above, that would be beneficial in understanding the building as a whole.
43. However, the lowering of the ground levels would result in the loss of the sunken space between the rear elevation and the existing garden level. The door and a window to the kitchen face onto that space. The loss of that sunken space would alter the building's relationship with its curtilage/garden. This in turn would not preserve the building's setting and the contribution it makes to the asset's significance.

Conclusion on this main issue

44. I conclude that the proposal would not preserve a Grade II* listed building, 12-21 Clapham Common North Side SW4, or its setting or any of the features of special architectural or historic interest that it possesses. It would therefore fail to satisfy the requirements of section 66(1) of the Act and in doing so would cause harm to the significance of this designated heritage asset.

Trees

45. No arboricultural report was provided with the planning application and no arboricultural report was provided as part of the appeal documentation. All trees within conservation areas are protected⁸ and there are trees within and adjacent to the appeal site that are subject to a Tree Preservation Order. Paragraph 10.37 of the Lambeth Local Plan 2023 (Local Plan) states that arboricultural information should be obtained prior to the determination of the proposal where there are trees within the development site. In the absence of an arboricultural report that includes a tree survey, the Council's arboricultural specialist was not able to fully assess the impact of the development on the trees within the conservation area. Those trees form an important part of the character and appearance of the Clapham Conservation Area, not only in terms of the common itself, but also the sylvan context of the buildings within it. In this case, the trees also form part of the setting of the listed building.
46. The appellant has indicated that he is willing to accept the imposition of a condition in relation to this main issue. However, in the absence of an arboricultural report, it is not possible to assess what harm, if any, the proposal would have on trees within and adjoining the site. It is therefore not possible to assess whether the imposition of a condition would meet the tests set out in the Planning Practice Guidance (PPG), including whether the imposition of a

⁸ Section 211 of the Town and Country Planning Act 1990 applies to any tree in a conservation area in respect of which no tree preservation order is for the time being in force.

condition(s) would be necessary to make the proposal acceptable in planning terms.

47. In the absence of an arboricultural report, I cannot be satisfied that the proposed development would not cause harm to the trees on the appeal site or on the adjoining sites. In particular, the proposed lowering of the ground could expose/damage/affect the roots of those trees and therefore their continued health and/or future survival. For that reason, I conclude that proposed development would be contrary to Policy Q10 of the Lambeth Local Plan 2020-2035 (Local Plan) which, amongst other things, states that proposals for new development will be required to take particular account of existing trees on the site and on adjoining land⁹.

Conservation Area

48. Although the proposed development would not be visible from the public domain, it would nonetheless fail to preserve the listed building and its setting which was formative in the development of the Clapham Conservation Area and of a type from which the character of the conservation area as a whole is derived. This harm would be caused by both aspects of the development: the proposed glasshouse/conservatory and the lowering of ground levels. The trees on the site form an important part of the character and appearance of the Clapham Conservation Area. In the absence of an arboricultural report, I cannot be satisfied that the proposed development would not cause harm to the trees on the appeal site or on the adjoining sites. Any loss of trees on the appeal site would harm the character and appearance of the conservation area.
49. I conclude that the proposal would fail to preserve or enhance the character or appearance of the Clapham Conservation Area as a whole. I therefore conclude that the proposal would fail to satisfy the requirements of section 72(1) of the Act and in doing so would cause harm to the significance of this designated heritage asset.

Appeal B

50. The proposed works are extensive. The Council's formal Decision Notice and reasons for refusal, specifies perceived harmful effects of the following elements:
- the glasshouse/conservatory within the rear garden
 - the Lowering of the ground levels
 - the French door unit proposed to the flank elevation at second floor level
 - the size of the new rear rooflight, and the increase in height of the front piers/installation of security railing.
51. Excluding the disputed elements and subject to the submission of further details that could be secured by conditions, I find no reason to take a different view to the Council that the remaining proposed works would preserve the special interest of the listed building and preserve or enhance the character or appearance of the Clapham Common Conservation Area as a whole. I have therefore focused my deliberations on the elements listed above and their

⁹ The reason for refusal also cites Policy Q9 of the Local Plan. However, on my reading, that policy relates to landscaping and is not directly relevant to this reason for refusal.

effects on the special interest of the Grade II* listed buildings and the character and appearance of the conservation area, prior to concluding against the Act, the Framework and the development plan. The special interest and significance of the designated heritage assets are as set out above.

52. The main issues whether the proposal would:

- preserve the Grade II* listed buildings, 12-21, Clapham Common North Side SW4 and Forecourt walls, railings and gates to 12-21 (Consecutive), Clapham Common North Side SW4, or their settings or any features of special architectural or historic interest which they possess, and
- preserve or enhance the character or appearance of the Clapham Conservation Area

Listed buildings

The glasshouse/conservatory within the rear garden

53. For the reasons set out in relation to Appeal A, the proposed glasshouse/conservatory would not preserve the setting of the heritage asset and the contribution it makes to the building's special interest. It would therefore harm the significance of this designated heritage asset.

Lowering of the ground levels

54. For the reasons out above, there would be harm resulting from the loss of the sunken space. This would alter the building's relationship with its curtilage/garden, which in turn would not preserve the building's setting and the contribution it makes to the asset's significance.

The French door

55. The apertures on the rear elevation of the listed building are predominantly traditional portrait windows and single leaf doors. The proposed double doors would not follow this pattern and would give this new opening more of a presence on the rear elevation as a whole. The proposed French doors would therefore be an incongruous and over dominant addition to the rear elevation of the building.

The new rear rooflight

56. There are existing rooflights on the upper slopes at each end of the mansard roof. However, the front and rear slopes of the mansard roof are presently devoid of rooflights. The mansard is a later addition to the property. The absence of rooflights on the front and rear upper roof slopes of the mansard serves to reduce the prominence of the later addition and to reinforce the subservience of this feature in relation to the main building. Consequently, whilst the insertion of the rooflight in this location would result in the loss fabric of limited historic interest, by reason of its size and position it would appear as a discordant and intrusive feature on the rear roof slope that would fail to preserve the special interest of the host building.

57. The appellant fairly points out that the proposed rooflight on the rear upper slope of the mansard would not be widely visible from the public domain. However, as indicated above, listed buildings are safeguarded for their inherent

architectural and historic interest irrespective of whether or not public views of the building (or any part of it) can be gained.

Security railing and increase in height of the brick piers

58. The existing boundary walls are a coherent feature across the front of the appeal property. The boundary wall is a statutorily listed building in its own right. It is prominent in views from the public domain and forms an important component to the setting of Archway House, a Grade II* listed building. In that context, the boundary walls of the wider terrace are harmonious, notwithstanding subtle differences in piers and low the boundary walls heights, gates, railings and overthrows.
59. The increase in height of front piers by 3 brick courses would upset the proportions of the boundary wall, specifically the relationship between the heights of the brick piers and the lower sections of the wall between the piers. As a result, the increase in height of the brick piers would be an over dominant addition to the listed boundary wall and would harm that heritage asset. Moreover, the harm to that listed building would in turn harm the setting of Archway House, with which it is viewed in conjunction, and would not reflect the uniform appearance of the front boundary walls of the terrace as a whole.
60. Similarly, by reason of their design, siting and extent, the side security railing would be a wholly incongruous addition to the listed building. The relevant drawing¹⁰ indicates that these railings reflect the design of the existing railing on the south boundary wall. However, no evidence has been provided to demonstrate that the railings on the south boundary were an historic feature of the listed building or to explain why, if railings were an historic element of the listed building, they are not now present on the side boundary wall. Furthermore, no architectural or historical rationale or justification for the side security railings has been provided, and no detail has been provided of how they would be fixed to the wall. The side security railing would not be in keeping with the established characteristic side boundary treatment of the host property. This would not preserve the special interest of the listed building.

Conclusion on this main issue

61. I conclude that the proposal would not preserve the Grade II* listed buildings, 12-21, Clapham Common North Side SW4 and Forecourt walls, railings and gates to 12-21 (Consecutive), Clapham Common North Side SW4, or their settings or any features of special architectural or historic interest which they possess. It would therefore fail to satisfy the requirements of section 16(2) of the Act and in doing so would cause harm to the significance of this designated heritage asset.

Conservation Area

62. For the reasons set out above, the proposed glasshouse/conservatory, French Door, rear rooflight and the side security railing would fail to preserve a listed building and its setting which was formative in the development of the Clapham Conservation Area. By reason of its prominence, and because it forms part of the boundary treatment to the terrace on Clapham North Side, the front boundary wall makes an important contribution to the character and appearance of the Clapham Conservation Area. The harm to the

¹⁰ Drawing No. 9800 P (0) 5001

listed building resulting from the increase in height of the brick piers would cause direct harm to the character and appearance of the conservation area as a whole.

63. I conclude that the proposal would fail to preserve or enhance the character or appearance of the Clapham Conservation Area as a whole. It would therefore fail to satisfy the requirements of section 72(1) of the Act and in doing so would cause harm to the significance of this designated heritage asset.

Appeals A and B: Conclusion on the effects of the development and works to the listed building and the conservation area

64. I have concluded that the disputed proposed development and works included as part of Appeals A and B respectively would fail to preserve the Grade II* listed buildings, their settings and any features of special architectural or historic interest which they possess. On that basis Appeal A would fail to meet the requirements of sections 66(1) and 72(1) of the Act and Appeal B would fail to meet the requirements of sections 16(2) and 72(1) of the Act. I give this harm considerable importance and weight in the planning balance. That harm would be intrinsic within the development and/or works and could not be overcome or mitigated through the imposition of conditions.
65. This harm would not result in a total loss of the significance of the listed building. As such, the harm would be less than substantial in terms of the Framework. Similarly, given the extent and nature of the proposal, I consider that the harm to the significance of the Clapham Conservation Area would be less than substantial in terms of the Framework. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.
66. The appellant highlights the Council's assessment in that it would be a low degree of less than substantial harm. Decision makers are not obliged to place the harm that would be caused to the significance of a heritage asset, or its setting, somewhere on a 'scale' in order to give the necessary great weight to the asset's conservation. The division of harm into categories of 'substantial' or 'less than substantial' set out in the Framework is adequate to carry out the weighted balancing exercise to determine whether a planning proposal is acceptable. In any event, a finding of less than substantial harm does not amount to a less than substantial planning objection and carries considerable importance and weight.
67. The appellant considers the heritage benefits arising from the appeal proposals to be significant. These benefits include the careful restoration of the front façade brickwork; the replacement of the modern sash windows with correctly detailed ones; the conservation of the interior with the reinstatement of missing sections of panelling; the replacement of modern doors with purpose made six and eight panelled doors; improvements to the building's energy performance and improvements to the vertical and horizontal connections within the building to meet the requirements of modern family living.
68. I recognise that the restoration of the front façade brickwork and the replacement of the modern sash windows would improve the character of the listed building. Furthermore, having regard to the listed building's Grade

- II* status, the reinstatement of missing sections of panelling and the replacement of modern doors must also be considered to be a public benefit.
69. The lowering of the ground levels immediately to the rear of the north façade of the property would facilitate a better understanding of the hierarchy of the rooms within the listed building and the way in which the building historically functioned. This would be a heritage benefit arising from the proposal.
70. The improvements to the building's energy performance could also be considered to a public benefit arising from the proposal, albeit this benefit is not quantified through evidence. Paragraph 164 of the Framework indicates significant weight should be given to the need to support energy efficiency and low carbon heating improvements to existing buildings. There would also be economic benefits arising from the investment into the property and the construction phase, as well as social benefits in the form of improvements to the local housing stock.
71. However, the other benefits advanced by the appellant would be either purely or largely private benefits. For example, I fully understand that the erection of the glasshouse/conservatory within the rear garden glasshouse would improve the usability of the building for modern family life. It is also reasonable to conclude that the inclusion of the side security railings was in response to security concerns, albeit no evidence has been provided to substantiate any such concerns. These private benefits would not fall to be weighed against the harm caused by the works as envisaged in the Framework.
72. It is not suggested by the appellant that the proposed works are necessary to secure optimum viable use of the heritage asset as a dwelling and there is no evidence before me that dismissing this appeal would necessitate the cessation of the residential use of the property. For all the reasons set out above, I find that the harm to the significance of the designated heritage assets identified in Appeal A (2023 Scheme) and Appeal B (2022 Scheme) would not be outweighed by any public benefits of the proposals.
73. In relation to Appeal A, I conclude that the proposed development would fail to preserve a Grade II* listed building, and any of the features of special architectural or historic interest that it possesses, and would fail to preserve or enhance the character or appearance of the Clapham Conservation Area. I therefore conclude that the proposed development would be contrary to Policies Q20 and Q22 of the Local Plan. Amongst other things, these policies provide that development affecting listed buildings will be supported where it would conserve and not harm the significance and setting, and that development proposals affecting conservation areas will be permitted where they preserve or enhance the character or appearance of conservation areas.
74. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have not been advised of any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
75. In relation to Appeal B, the proposed works would not meet Policy Q20 of the Local Plan.

76. The proposals in both Appeal A and Appeal B would also fail to accord with the provisions within the Framework which seek to conserve and enhance the historic environment.

Conclusion

77. For the above reasons, I conclude that the appeals should be dismissed.

Paul Freer

INSPECTOR