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## Appeal Decision

Site visit made on 3 June 2024

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 12<sup>th</sup> July 2024**

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**Appeal Ref: APP/N5660/W/23/3327336**

**5 Margaret Rutherford Place, London SW12 0JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal\* to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Daniel Osborn against the decision of the Council of the London Borough of Lambeth.
  - The application Ref. is 23/00100/VOC.
  - The application sought planning permission for *'the demolition of existing buildings and the erection of two blocks of 3 two-storey terraced dwellinghouses, with associated car parking and landscaping without complying with a condition attached to planning permission Ref. 02/02473/FUL dated 26 March 2003'*.
  - The condition in dispute is No. 16 which states that: *'Following the implementation of this consent, notwithstanding the provisions of the Town and Country Planning General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no buildings, extensions or alterations permitted by Classes A,B,C,D and E of Part 1 of the Second Schedule of the 1995 Order shall be carried out without the prior written permission of the Local Planning Authority, obtained via the submission of a planning application'*.
  - The reason given for the condition is *'To safeguard the character and amenities of the premises and adjoining properties'*.
- (\*See paragraph 2 below)
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The property address in the header is that of the appellant and forms one of a number of houses in the original development permitted under Ref. 02/02473/FUL and described as 'Land and buildings Rear of 1-25 Hydethorpe Road, London'.
3. For the purposes of clarification, the reference to 'a refusal' in the first bullet point of the header is to all intents and purposes a deemed refusal. This is because the Council granted a new permission for the original development subject to a number of conditions. Condition no. 8 of that permission has the same wording as condition no. 16 in the original permission with the exception that the reference to Class E has now been excluded. This new permission stands alongside the original consent which remains intact. The purpose of the appeal application was for the condition to be varied so as to exclude the reference to his house, No. 5 Margaret Rutherford Place.

## **Main Issue**

4. The main issue is whether condition no. 16 and its application to all the individual houses in the development is reasonable and necessary to safeguard the character and amenities of the premises and adjoining properties.

## **Reasons**

5. The grounds of appeal refers to the thrust of Government planning policy which seeks to ensure that a blanket restriction of permitted development rights should not normally be imposed on development. And the appeal statement provides examples, including extracts from the National Planning Policy Framework (most recent amendment December 2023) and the online resource provided by the Planning Practice Guidance.
6. Nevertheless each case must be addressed in the light of its individual circumstances and merits and I saw on my visit that there are two main factors that point towards the necessity to maintain the safeguards that a preclusion of permitted development rights currently provides.
7. First and foremost is the type and form of the development permitted and constructed pursuant to the 2003 permission. The two blocks of 3 two-storey terraced houses with one perpendicular to the other represent a unity of design that is appropriate to give them the clear and coherent presence required for an infill development in a locality with a predominance of Victorian terraces. Secondly, is the highly constrained size and location of the site, with its rearward aspect and proximity to the existing built form of the rear elevations of the terrace on the north east side of Hydethorpe Road.
8. These factors combine because it is reasonable to assume that both significantly informed the nature, form and scale of the original development scheme and its need to be the optimum for the site and its setting. And as the officer's report explains, this has been achieved firstly by each property presenting regularly arranged and uncluttered elevations to both the public and private realms and secondly by the design, proportions and materials of the six dwellings providing consistency both individually and amongst the group.
9. The report goes on to explain the Council's view that the first four classes (A, B, C & D) of the 2015 GPDO (as amended) have the potential to cause harm to the character and appearance of the area and in some cases the living conditions for neighbours. Although I have carefully considered the appellant's arguments, I agree with this analysis and do not regard the appeal statement as providing a convincing case as to why, given the constraints of the existing design and the small site, any individual proposal should not be subject to the process of an individual appraisal of its merits through a planning application. I also consider that the Council's concession as regards Class E (curtilage development) is reasonable as the potential for harm would be far less. Finally, I consider that the limitation of the application to a single dwelling in a terrace of three would be illogical and inequitable.
10. For the above reasons, and having had regard to all other matters raised, the appeal is dismissed.

*Martin Andrews*

INSPECTOR