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## Appeal Decisions

Site visit made on 6 June 2024

**by Paul Martinson BA (Hons) MSc MRTPI**

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

**Decision date: 23 July 2024**

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### **Appeal A Ref: APP/N5660/W/23/3332891**

#### **21 Moorland Road, London SW9 8UA**

- 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 Ms H King & Mr D Leckie against the decision of the Council of the London Borough of Lambeth.
  - The application Ref is 23/00237/FUL.
  - The development proposed is described as: 'proposals for rear access staircase from kitchen/dining area to the garden. With modifications to the existing window to form a new door opening. Installation of 2no. new conservation roof windows'.
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### **Appeal B Ref: APP/N5660/Y/23/3332890**

#### **21 Moorland Road, London SW9 8UA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
  - The appeal is made by Ms H King & Mr D Leckie against the Council of the London Borough of Lambeth.
  - The application Ref is 23/00232/LB.
  - The works proposed are: 'proposals for rear access staircase from kitchen/dining area to the garden. With modifications to the existing window to form a new door opening. Installation of 2no. new conservation roof windows'.
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### **Decision**

1. *Appeal A*: The appeal is dismissed.
2. *Appeal B*: The appeal is dismissed.

### **Preliminary Matters**

3. As the proposal is in a conservation area and relates to a listed building 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. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
5. The appeal property, a flat comprising of part of the ground floor and the first and second floors of 21 Moorland Road, forms part of a Grade II listed building<sup>1</sup> referred to on the National Heritage List for England as: '5-23, Moorland Road SW9'. It also lies within the Loughborough Park Conservation Area (the CA).

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<sup>1</sup> List Entry Number: 1065047

6. The application was amended prior to the Council issuing its decision. I have based my assessment on those same plans.

### **Main Issues**

7. The main issues are:

- the effect of the proposal on designated heritage assets, including whether the proposal would preserve the Grade II listed building of 5-23, Moorland Road SW9, and whether the proposal would preserve or enhance the character and appearance of the CA; (*Appeals A and B*) and
- the effect of the proposed development on the living conditions of the occupiers of 23 Moorland Road with particular regard to privacy (*Appeal A*).

### **Reasons**

#### Heritage Assets

##### *Special Interest and Significance*

8. The listed building comprises a row of mid-nineteenth century villas. Their symmetrically arranged Classical façades consist of white stucco with incised lines and ground and first floor cill bands to the front. From the evidence before me, I find the listed building's special interest and significance to be principally derived from its historic and architectural interests. Important contributors in these regards are its surviving historic fabric and its architectural aesthetic, based on Classical proportions, and the symmetry, materials and detailing that strongly reflect the architecture of this period.
9. In that regard window openings are symmetrically arranged on the front and rear elevations. Windows are finely detailed, elegant, multi-paned timber sliding sashes with slight variations in design across the asset. Console bracketed cills are features of the windows that are located to both the front elevations and the more restrained elevations to the rear. Despite some insensitive alterations to some of the rear elevations in particular, the careful balance and symmetry of the buildings' external elevations, including the elegant fenestration, is highly evident to both the front and rear and is integral to the special interest and significance of the asset.
10. The site is located within the CA which extends over Loughborough Park and the adjacent streets. From the limited information provided and pertinent to the appeals, the character and appearance and thus special interest and significance of the CA derives, in part, from the prevalence of handsome Georgian and Victorian villas. In that regard, the consistent linear arrangement of Classical mid nineteenth-century villas comprising the listed building as a whole, represents an important component of that character and contributes to the significance of the CA as a designated heritage asset. Forming part of that listed building, the appeal property thus reinforces that significance.

#### *Proposals*

11. The proposal would involve the removal of the finely detailed timber sliding sash window to the rear of the ground floor and its replacement with a new pair of timber doors. This would involve widening of the opening and removal of masonry beneath the window to around ground floor level. The creation of the taller and wider opening, out of proportion with the other openings, would

diminish the symmetry that exists to the rear elevation. Furthermore, its subdivision with a top light and pair of double doors would contrast with the existing finely detailed windows. This would be harmful to the authenticity of this elevation and would disrupt its balance and symmetry, adversely affecting the special interest and significance of the listed building.

12. I am not provided with any details of the age or significance of the existing window that would be removed; however, it would appear to be of some age with fine glazing bars and is similar in design to other windows in the appeal property and the listed building as a whole. The loss of historic fabric in the form of the window, and the masonry removed to form the larger opening, would result in harm to the authenticity and integrity of No 21, adversely affecting the special interest and significance of the listed building.
13. I accept that the rear elevations of the listed building has seen some alteration over the years, particularly to the basement and ground floor levels. I have also been provided with copies of plans relating to listed building consent approval at 15 Moorland Road, where there is an existing staircase access from the ground floor. However, it is not clear that this staircase was approved as part of the details provided or whether it existed prior to the approval. Furthermore, from the evidence provided, I would note that the overriding character is of no staircase access from the rear of the villas comprising the listed building. Nevertheless, evidence of existing harm is rarely justification for further harm to listed buildings.
14. The proposal, owing to its location to the rear, would not be easily visible in public views due to the screening provided by existing tall trees to the rear of the garden. However, I am mindful that visibility from Loughborough Park and the adjacent road will likely increase at times when the trees are not in leaf. The proposal would also likely be viewed from neighbouring properties. Therefore, whilst not widely publicly visible, the harm to the listed building, as an important component of the CA, would, albeit in a small way, incrementally erode the character of the CA. In that regard it would fail to preserve the character and appearance of the CA as a whole.
15. For the above reasons, the proposal would fail to preserve the Grade II listed building, 5-23, Moorland Road SW9, or any features of special architectural or historic interest which it possesses. It would also fail to preserve the character and appearance of the CA. This would be contrary to the requirements of sections 16(2), 66(1) and 72(1) of the Act. In doing so it would cause harm to the significance of these designated heritage assets.

#### *Public Benefits and Balance*

16. With reference to Paragraphs 207 and 208 of the National Planning Policy Framework (the Framework), in finding harm to a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and nature of the proposal, I find that the harm in this instance would be 'less than substantial' but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
17. I acknowledge that providing direct access to the rear garden of No 21 may improve the use of the garden of the flat at the lower level through limiting

access from the side gate by occupants of the upper flat. There would be obvious benefits to the appeal property with improved access to outdoor space. Nevertheless, these improvements would only result in benefits to the occupants of the flats that comprise No 21 and any future occupiers, as opposed to the identified public harm to the heritage assets. There is no compelling evidence that the proposal is necessary to secure the optimum viable use of the building. On this basis the proposal does not provide the clear and convincing justification for the harm, as required by paragraph 208 of the Framework.

18. The public benefits are consequently not sufficient to outweigh the considerable importance and weight I attach to the identified harm to the significance of the designated heritage assets.
19. The proposal would not preserve the Grade II listed building of 5-23, Moorland Road SW9, or any features of special architectural or historic interest which it possesses. It would also fail to preserve the character and appearance of the CA. This would be contrary to the requirements of sections 16(2), 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance heritage assets. The harmful impact would also be contrary to Policies Q5, Q11, Q20 and Q22 of the Lambeth Local Plan (2021) (the LP) which together seek to ensure proposals are of a high-quality design that conserves and enhances heritage assets and safeguards townscape and the historic environment.

#### Living Conditions

20. The rear garden and paved area close to the rear of the dwelling at the immediate neighbour, No 23, is relatively private, benefiting from screening from a reasonably high wall along the boundary with the appeal property and trees to the rear boundary with Loughborough Park. Furthermore, on the site visit I saw that views of the whole of the rear garden of No 23 were quite difficult to achieve from the ground floor windows of the appeal property, particularly with regard to those spaces closest to the dwelling. The existing property at No 23 thus benefits from relatively good levels of privacy that its occupants would expect to be preserved.
21. The proposed external staircase would comprise of an external landing above the existing basement window with stairs extending out from the building close to the boundary with the neighbouring property, No 23. Due to its height and location adjacent to the boundary, the landing area and the adjacent steps would allow for uninterrupted views of the majority of the rear garden of No 23. Whilst I accept that the staircase and landing area is solely for access and would likely be used intermittently, such use is likely to materially reduce current levels of privacy enjoyed by the occupants of No 23.
22. Due to the significant height of the structure, it would be prominent in views from the garden of No 23. This, in my view, is likely to lead to residents of that property experiencing a significant increase in the perception of being overlooked when in their garden, particularly if the double doors were left open, as is likely on occasion in the summer months. Alongside the increased potential for direct overlooking, this would considerably reduce the privacy levels in that garden.

23. For the above reasons I conclude that the proposal would result in an adverse effect on the living conditions of the occupants of 23 Moorland Road with particular regard to privacy. The proposal would therefore conflict with Policy Q2 of the LP which, in summary and amongst other things, seeks to ensure new development avoids unacceptable levels of overlooking or perception of overlooking.

### **Conclusion**

24. *Appeal A:* The proposed development would conflict with the development plan. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
25. *Appeal B:* For the above reasons and having regard to all matters raised I conclude that Appeal B should be dismissed.

*Paul Martinson*

INSPECTOR