
Appeal Decisions

Hearing held on 20 and 21 October 2015

Site visit made on 20 October 2015

by John L Gray DipArch MSc Registered Architect

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 November 2015

Appeal Ref. APP/A5840/W/14/2228957¹

Beltwood House, 41 Sydenham Hill, London, SE26 6TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr G Coram against the Council of the London Borough of Southwark.
 - The application, ref. 13/AP/3341, is dated 30 September 2013.
 - The development proposed is the conversion of the existing hostel building to ten self-contained apartments including external works comprising the addition of dormer windows, roof lights and light wells; demolition of ancillary buildings and additions; the construction of a new three-storey stable block development comprising four 5-bedroom and three 2-bedroom houses; and the provision of car parking and landscaping.
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Appeal Ref. APP/A5840/Y/14/2228958

Beltwood House, 41 Sydenham Hill, London, SE26 6TH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 Mr G Coram against the Council of the London Borough of Southwark.
 - The application, ref. 13/AP/3342, is dated 30 September 2013.
 - The works proposed are the conversion of the existing hostel building to ten self-contained apartments including external works comprising the addition of dormer windows, roof lights and light wells; demolition of ancillary buildings and additions; the construction of a new three-storey stable block development comprising four 5-bedroom and three 2-bedroom houses; and the provision of car parking and landscaping.
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Decision

1. Both appeals are dismissed. Planning permission and listed building consent are refused.

Procedural matters

2. Listed building consent is not required for all of the works described in the listed building application. It was agreed at the hearing that listed building consent was required only for the works to the listed building itself, any works attached to it and the demolition of the ancillary buildings.

¹ The change in appeal references – 'A' to 'W' for the planning appeal; 'E' to 'Y' for the listed building appeal – are purely for internal Planning Inspectorate purposes. They do not affect the appeals themselves.

3. At the hearing, the appellant submitted for consideration an amended scheme which reduced the footprint and height of the proposed stable block development. Although smaller and potentially having less impact than the application scheme, this proposal appeared to be, in effect, a new and different scheme. The appellant carried out all of the consultations otherwise to have been undertaken by the Council, had it accepted the amendment; however, the Council itself had not been asked by its officers to consider the amendment. Taking all of these considerations into account, the proposal could not be accepted as an amendment to the original application. This conclusion was reinforced as a result of the site inspection, where the marking out on the ground of both schemes showed that the amendment was in a significantly different location to the original scheme and thus even more to be considered as a new and different proposal.
4. Various minor amendments were proposed, such as the omission of dormer windows, the omission of double-glazed windows, the reduction in size of the light wells and the provision of wheelchair accessible units in the proposed stable block rather than in the basement of the listed building. All of these are definitely minor, they reduce the impact of the proposals on the listed building, do not adversely affect anyone who would have been consulted and are capable of being dealt with by condition. Accordingly, these amendments to the original application scheme may be accepted.
5. There were discussions at the hearing regarding a section 106 obligation to deal with affordable housing. The unilateral undertaking executed by the appellant did not satisfy the Council, which proposed an alternative agreement based on its normal practice. This was still being considered by the appellant's solicitor. As an exception to what the Planning Inspectorate would normally seek, it appeared appropriate to seek to resolve the matter only if the appeals were to be allowed. Given the decisions above, there is no need, in these appeals, to proceed further on the matter.

Main Issues

6. There are three main issues. The first relates to both appeals; it is fairly simply expressed but has many strands to it. It is whether there would be harm to the significance of the listed building, from works to the building itself, from development within its curtilage or from loss of trees and landscaping proposals; any harm arising must be weighed against other factors, including the public benefit and viability.
7. The second and third issues relate only to the planning appeal. The second is whether the proposed basement apartments would receive adequate daylight and sunlight. The third is whether the proposed stable block development would be unduly overbearing for the residents of neighbouring properties or would cause harmful overlooking of those properties.

Reasons

First main issue – effect on the significance of the listed building

Alterations to the listed building

8. Beltwood House is listed in grade II. The list description (updated in 2012) notes that it was built in 1849-1850 but substantially remodelled in the late-Edwardian manner in 1914-1915 (the appellant suggests in the 1920s, though nothing hangs on this). Externally, the principal changes were the removal of the main entrance from the southern façade to the western, with the addition

of a large hooded porch, alterations to the northern elevation and enlargement of the service wing.² There were also significant internal alterations, including, as the list description says, “the creation of a large entrance hall” and the reworking of the principal rooms in “the eclectic revivalist styles of the period”.

External alterations

9. There would be little change to the existing fabric or appearance of the listed building itself. Some originally proposed dormers are no longer sought. Two existing small dormers in the east-facing roof slope would be replaced by a single larger one – but it would be similar to the other existing dormer in that roof slope and would barely be noticeable as an alteration. The original windows were proposed to be replaced with double-glazed windows but that is no longer so. There would be an element of enhancement at first floor level at the south-eastern corner of the building, where the uncomfortable junction between the original building and later extension would be resolved, allowing the east-facing oriel window to be properly appreciated.
10. The Council’s remaining and principal concern, externally, is the introduction of light wells around the building, on its north, east and south sides. The scheme involves conversion of the basement into habitable accommodation and the light wells would allow light into the proposed rooms. The appellant has offered various reductions in the sizes of the light wells, something that could be accepted as an amendment to original proposals from a design point of view – although the Council considers that daylight and sunlight to the basement rooms would be unsatisfactory even with the original proposals (a matter dealt with in the second main issue).
11. On the north side, two adjoining light wells would serve the living/dining areas of Apartments 01 and 02.³ It may be argued that the location of these light wells, at the rear of the building, would not be a significantly harmful intrusion; nevertheless, their combined length would be about 13m, over two thirds of the rear façade, with a depth of over 2.5m from that façade. On the east side, two light wells either side of the projecting porch would serve the bedrooms of Apartment 01. The location and their relatively small size would leave them subordinate to the projecting porch and allow them, subject to details, to be introduced with modest, but not unacceptable harm to the listed building. On the south side, the original proposal was for a light well the full width of the pedimented central bay to serve the bedrooms of Apartment 03. It would have to be bridged to allow the use of the French windows in the ground floor living room of that apartment. Two smaller light wells, to either side of the approach to the French windows, is the suggested alternative.
12. Looked at individually, some of the light wells – particularly the west-facing ones; to a lesser extent, the north-facing ones – could be designed and detailed sympathetically. Taking all of them together, however, they would make the basement accommodation very obvious, introducing something to the listed building that was not previously there. And that applies particularly to the single south-facing light well, which would come between the house

² It would be more accurate to describe the southern façade as south-eastern but the list description uses the cardinal points of the compass and consistency prompts their use throughout this decision.

³ These apartments are also designated as wheelchair accessible, with a potential location for a shared wheelchair platform shown on the plans. At the hearing, however, the appellant suggested that a condition could secure wheelchair accessible units in the stable block instead of the basement of the listed building.

and the raised, more formal area of garden/terrace in front of it; two smaller light wells would have a lesser but nevertheless similar impact.

Internal alterations

13. The ground floor would see two significant changes. Apart from them, the alterations necessary to this floor may be seen as largely a question of detailed treatment and methodology, capable of resolution by detailed drawings and/or specifications, or perhaps by appropriate conditions on planning permission and listed building consent.
14. Firstly, the central south-facing room in Apartment 03 would have a staircase to the basement introduced into it (leading down to the bedrooms) and a new doorway in its west wall (leading to the kitchen/dining room). The existing room is fine space. Both interventions would detract from its qualities as a single and coherent room (with doors only to the entrance hall and the outside). The panelling of the west wall could perhaps be re-ordered to encompass the doorway without unduly harming those qualities but it is difficult to see how the staircase would not undermine the singular character of the room. Also, it is somewhat strange (though at least there would be no harm to the room) that the entrance to the apartment would be directly into this room without any intervening private hall.
15. Secondly, the corridor link to the service wing would be lost. It provides physical evidence of the socially significant history of the building. So too does the secondary staircase within the service wing, which would be lost to the proposed conversion. Nevertheless, the way in which the entrance to Apartment 04 from the main hall would be achieved is acceptable; and the loss of the corridor link and secondary staircase could be justified in the context of an appropriate and viable overall scheme for the building.
16. The first floor has some architecturally and historically significant rooms, though less grand than those on the ground floor. The proposed alterations on this floor also give significant cause for concern.
17. The landing, a continuation of the entrance hall by way of the staircase, is already somewhat changed from what must have been its original appearance and character – but would be radically altered by the intrusion into it of the entrance hallway to Apartment 06 and the enlargement of it to give access to Apartment 07 and to a new staircase to the second floor. The way it would be done could, however, prove acceptable – because the space would be divided, more or less, into a rectangular landing and, off it, a secondary access hall.
18. The main room in proposed Apartment 06 (living/dining/kitchen) appears logical in that it would be the full width of the central pedimented section of the building. That may have been the original plan layout. Nowadays there is a single room occupying the eastern two-thirds and a bathroom area (from the previous use of the building) with a barrel-vaulted ceiling in the western third. The main room would be much less deep, to enable the hallway and stairs to the second floor, and would not be a simple rectangle, which is what one would naturally expect of an original room that was central to the plan form. In the circumstances, however, it being difficult to divine the original layout or the date of the alterations that brought the barrel-vaulted ceiling, it would be difficult to object to an otherwise satisfactory new layout.
19. It is, however, open to question whether the overall layout of the first floor is wholly satisfactory. The existing south-western room has considerable merit

as it exists but would become Bedroom 1 in Apartment 06, much reduced in size and disrupted by the introduction of the entrance hall to the apartment and also two bathrooms. The changes could perhaps be made to work, in the context of an appropriate and viable overall scheme, but a solution should preferably be supported by design details rather than secured by condition.

20. A similar thing applies to Apartment 07. Removal of the secondary staircase enables a coherent layout but the kitchen and bathrooms of the proposal occupy a greater area than the staircase and corridor and would significantly reduce the size of the rooms to front and rear, harming the character of both.
21. There is little of significant architectural or historic merit in the ground floor and first floor of the service wing or on the second floor of the main building, which is largely within the roof space. The proposed conversion of the service wing into Apartments 05 and 08 is neatly organised within the existing fabric. Similarly, conversion of the second floor into Apartments 09 and 10 would make effective use of the space available and need not unduly disturb the existing structure. Subject to conditions, all of these works could be undertaken without undue impact on the significance of the listed building.

Basement and underpinning

22. There is some logic to what was explained at the hearing about the need for underpinning. Two areas were said to need underpinning for reasons to do with the structure of the building itself (because of the works undertaken at different times in its history) and two more because of the effect of tree roots. Together, that would mean underpinning about 40% of the structure, making it more appropriate, it was argued, to secure a long-term future free from movement by underpinning the whole building. If that were done, it also would become relatively straightforward to increase the clear height in the basement, making conversion to two apartments more attractive. There are, however, a number of shortcomings with what is proposed.
23. There is no structural survey to show exactly what movement has occurred, or is still occurring, or by how much, or where. If there were good reason for underpinning a substantial proportion of the structure, then to underpin the whole building might be appropriate; but, if it were needed only to specific areas and for clear and specific reasons, then full underpinning might represent an unnecessary intervention.
24. Both underpinning and conversion proposals require very careful consideration when a listed building is involved. Here, some of the best evidence for the original 1850 building is to be found in the basement – but the changes involved in introducing apartments would mean the disappearance, either from view or entirely, of significant amounts of both the original structure and the later alterations. That applies all the more if the floor level is to be reduced to give greater headroom.
25. It is possible that full underpinning could be justified to help secure the future of the building as it is normally seen (above ground). That case has not been made out; the absence of technical evidence means it is little more than an assertion that, because some underpinning is needed, it should be done to the whole building. Flowing from that, lowering the basement floor level might be a natural by-product of appropriate underpinning – or it might not. Given that the overall aim should be the preservation of the listed building, works that cause the minimum of change are to be preferred, even in the basement, over those, such as proposed here, that would obscure or destroy original fabric.

26. Quite apart from underpinning, the alterations proposed for the basement are substantial. They involve extending the existing space to the west, broadly on either side of the porch at ground floor level, and also to the south, to align with main walls of the façade above (centrally, in line with the pedimented section of the façade, and also to its east). Those changes might not be harmful to how the building is normally seen and appreciated above ground but they nevertheless represent change to the existing fabric and harm to the significance of the listed building.

Conclusion on alterations to the listed building

27. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be given to “the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses”. The amount of alteration proposed to this listed building is unquestionably substantial. Externally, it would be largely limited to the introduction of light wells around the building. Internally, the entrance hall and main staircase would be more or less unchanged but the alterations to form some of the apartments and also to underpin and convert the basement would undoubtedly be harmful. Overall, however, that harm, in terms of the National Planning Policy Framework (NPPF), would be “less than substantial”.
28. That is because the significance of the building as an 1850 house remodelled in the early 20th century would remain evident, primarily in its external appearance but also in some of the principal internal spaces. The rooms resulting from the proposed alterations would still, with appropriate detailing, be fine rooms – some, however, would be much changed from the character contributing to the listed status of the building. The cultural significance of a 1920s house (the main house with its service wing) would be lost in any conversion to apartments but would remain evident in documentary form.

Demolition of the curtilage buildings

29. The listed building description says that the “cottage and garage to the north-east of the house are not of special interest”. The Council takes issue with that to the extent that both buildings are relatively small in scale and clearly subordinate to the house and its attached service wing; it argues that they are obviously ancillary to the main building and stand comfortably alongside it, generally in the manner one would expect. That may be true – but the garage is somewhat utilitarian in appearance and the cottage, while a more interesting design, has suffered from some inappropriate changes.
30. No harm would arise from the loss of these two buildings to make way for a new development that itself would stand comfortably in the context of the mass, scale, orientation and style of the listed building. However, if a scheme proposing either appropriate new development or satisfactory making good and landscaping of the site of these buildings is not proposed, then the setting of the listed building would be compromised by their demolition and it would be inappropriate to grant listed building consent.

Development in the grounds

31. What is proposed is a three-storey building with a substantial footprint to the east of the listed building.⁴ It would be partially sunk into the ground so that

⁴ Only the stable block is considered here; other development in the grounds, such as the proposals for the tennis court and for surface car parking, are dealt with in relation to trees and landscaping.

the northerly, easterly and southerly facades of its U-shape would be akin to a 2½-storey building with the upper ground floor, or *piano nobile*, about 1.5m above the prevailing ground level. The inner facades of the building would form three sides of a formal courtyard (at the ground floor level of the proposed houses); the service wing of the listed building would form the fourth side. The main façade of the listed building is about 20m long and its maximum depth a little over 15m. The stable block would have a southerly façade almost as long as that of the listed building, on the same line; and its depth would be around 35m.

32. On any measure, even allowing for the U-shaped plan and the relatively modest spans (a little over 10m at most), what is proposed is a substantial new building. To call it a stable block is somewhat misleading (though that, for simplicity's sake, is the term used throughout this decision). Its footprint would be greater than that of the listed building. It would have three storeys, exceptional for a stable block. Simply on those counts, it could not possibly be seen as subordinate or subservient to the listed building.
33. There are other concerns with the design. Having the same building line as the main house means it would compete rather than be subordinate. Being three-storeyed would have the same effect. The domestic style of the design, with its comparatively low storey heights, would create an uncomfortable contrast of scales between the two main storeys of the listed building and the three of the new development; and that would be exacerbated by the neo-Georgian architectural style, relating neither to the origins of the house or to its remodelling.
34. The concept of the design is essentially an attractive one – but the proposal is simply too large to be considered in the same terms as a stable block, a type of building related to but always subservient to the main house. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies here and a building of this nature would cause significant harm to the setting of the listed building. Nevertheless, that harm would be “less than substantial” to the building's significance as a heritage asset. Its origins as a large house in its own large grounds would remain evident and relatively undiluted because of the location of the new development, even if its size is a cause for criticism.

Trees and landscaping

35. There is little to be said about the landscaping proposals and the works proposed to existing trees. All of the trees within the grounds are covered by a tree preservation order. The proposals, however, generally combine what would be desirable in relation to the proposed development with what would be appropriate in terms of tree management. Some of the proposed losses may be regrettable in isolation but they would be compensated by the landscaping proposals.
36. There are three main areas of concern. The first is the loss of vegetation generally adjacent to the north-east corner of the proposed stable block. No significant tree would be lost but there is little scope for new planting because of the need to afford a reasonable outlook from the windows of the proposed building coupled with its proximity to the site boundary. The question here, however, is more about the level of amenity enjoyed by neighbouring residents than the tree losses themselves. The second is what would happen around the tennis court if it were to be renovated and the changing rooms

replaced where they were or in a new location. One way or another, little harm need arise and the matter could be the subject of a planning condition to have details approved. The third is the extent of hard surfacing needed to the north of the listed building to provide for additional car parking. The area concerned, however, is already fairly well contained by existing trees and could be further enclosed, even if there were losses, by additional tree and shrub planting.

Viability

37. Paragraph 134 of the NPPF says that, where a development proposal would “lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”. The listed building can barely be seen from public vantage points, at least when the trees are in leaf, though it is undoubtedly more visible from some of the private properties surrounding it. Nevertheless, there is a clear public benefit to be gained from bringing a substantial listed building back into effective use; it represents the preservation of part of the country’s heritage. Moreover, residential use must be seen as the optimum use – a continuation of the original use, albeit as apartments rather than a single dwelling. The question that remains is whether what is proposed represents the optimum viable use. If it is, many of the individual criticisms of the proposals for the building, perhaps even the scale of new development within its setting, might be seen as necessary evils in the interests of the effective preservation and use of the listed building.
38. Unfortunately, what has been submitted does not lead to any clear conclusion on the matter. The Development Appraisal Report of 27 October 2014 estimated a gross profit on the overall development of 11.14%. That is a smaller figure than might be normally be thought acceptable to a developer when the conversion and renovation of a listed building is involved, given the ever likely emergence of unforeseen problems or extra costs after works have commenced. However, various things undermine the weight that can be given to that appraisal.
39. The proposal for development in the grounds was not put forward as enabling development because it was not felt that what was proposed was contrary to policy. That seems to be because some form of residential development was seen as acceptable in principle, without considering whether there might have been conflict with policies for the protection of listed buildings and their settings. At the hearing, however, the new development was argued as necessary to achieve a viable scheme. So too was the conversion of the listed building into ten apartments. That said, the amended scheme for the stable block represents a reduced volume of development, which suggests a reduced profit from that aspect of the scheme, a correspondingly lesser contribution to funding the works to the listed building, a reduced profit margin and, all told, some doubt about the accuracy of the originally estimated 11.14%.
40. There is also the price paid for the purchase of the site – £2.75 million. That may be well below what was being offered by others at the time of purchase (which was apparently subject to gaining the necessary permissions and consents) but it must also be put in the context of the likely cost of preservation and conversion works. Put simply, the sales value of the houses and apartments comprising the scheme minus the construction costs for both the listed building and the new development, minus the costs of landscaping

and other works in the grounds, minus an appropriate profit, should give a residual property value. In this case, that would seem to be considerably less than the price actually paid – although what might be considered an appropriate scheme for the building and its setting would clearly have a major influence on the calculation.

41. And that is the problem in this case. There is no analysis of any scheme for the conversion of the listed building into a lesser number of apartments or, for example (and as in the proposal granted planning permission in 1999), for the vertical sub-division of the listed building into dwellings. Fewer units might well mean lesser costs in implementing the necessary works and it is not impossible that those costs could be adequately covered by the sales values of resulting units. Similarly, while one would expect a smaller development in the grounds to generate a smaller profit, the unanswered question is what sort of cross-subsidy between new development and conversion/restoration, if any, would be necessary.
42. Also unclear is the potential sales values of the proposed apartments and houses. In the context of the continuing rise in house prices in London, anything relied on in 2014 may now be considered out-of-date. In October 2014, construction costs were put at £7.66 million and gross sales value at £14.09 million (both including the gate house, which should be excluded for the purposes of this decision). In March 2015, it was said that the appellant's assumed annual construction cost inflation rate of 5% was likely to be about 5.3%. However, annual house prices rises were said at the hearing to be running at 8% or more. Thus, and whatever the disagreement between the appellant and the Council on likely sales values for the proposed development, the gross profit would almost inevitably be significantly greater than estimated in October 2014.
43. The material submitted to the hearing does not clarify matters unduly. A financial appraisal for the proposals for the listed building indicates construction costs of virtually £3.8 million, adjusted to the second quarter of 2015, and total development costs of £7.3 million. Set against the estimated development value of £6.384 million (in September 2013), that would give a loss of 12.6%. That calculation includes the site purchase cost, adjusted to exclude the gate house but not the cost of works within the grounds; and the estimated development value is likely now to be greater.
44. Three things may be drawn from this. Firstly, whatever the nature of the residential market in which acquisition took place, one may infer that £2.75 million was more than the site was worth given the likely costs and values of an acceptable development of the listed building and its grounds. Secondly, the residential market is what it is – and it might have to be accepted that, if the site was not purchased at a price that was arguably too high, then the future of the listed building was going to be jeopardised to a perhaps greater extent. Thirdly, based broadly on the appellant's figures for development costs and value, and allowing for a 20% profit on costs, a site purchase price of more than £0.5 million leaves the proposals for the listed building, on its own, unviable. Fourthly, however, the principle of some development in the grounds was known to be acceptable, which would justify a purchase price greater than £0.5 million.⁵ So too, of course, would a lower profit margin.

⁵ The calculation, done for illustrative purposes, assumes construction costs of £3.8 million, professional fees of £0.38 million, agency and legal fees of £0.1 million, bank interest of £0.63 million, 20% profit on that of £1.28 million, giving £5.89 million against a development value of £6.38 million.

45. The net effect of all the unknowns and variables considered above leads to a straightforward conclusion. Put simply, it cannot be said with any certainty that a viable scheme for preservation and effective use of the listed building must comprise its conversion into ten apartments plus the erection of six new houses in its grounds; also, the evidence to the hearing does not enable even an educated guess at what sort of scheme, for the listed building or in its grounds, might or might not be the optimum viable use.

Conclusion on the first main issue

46. The views of English Heritage (as it was in June 2014) are of relevance here. It welcomed the principle of bringing the listed building back into use and thought the proposals for conversion appeared well-considered, save for a concern that the proposed light wells could become overly dominant. It thought the heritage significance of the site unlikely to be harmed by demolition of the garage and cottage but considered that the proposed stable block development, because of its size and architectural style, would harm the setting of the listed building. It could not see sufficient public benefit to outweigh that harm in the context of paragraph 134 of the NPPF.
47. That is not dissimilar to the conclusions above, which are based on the evidence to the hearing. If the proposals were clearly necessary to the viability of bringing the listed building back into effective use, then the public benefit of achieving that might be argued as outweighing the harm caused by the internal alterations. That could also apply to the light wells, subject always to detailed design. On the other hand, the massing, scale and architectural style of the proposed stable block would be inappropriate so close to the listed building. The proposals would bring no public benefit other than securing the optimum use for the listed building, perhaps the optimum viable use; in the absence of compelling evidence on viability, however, there is nothing to outweigh the harm that would be caused.

Second main issue – daylight and sunlight

48. *An Assessment of Daylight and Sunlight*, dated February 2015, considered the quality of daylight and sunlight reaching the basement rooms in the proposed scheme. It was based on the originally proposed light wells rather than the smaller ones subsequently suggested. It concludes that all of the basement rooms would have natural daylight meeting or exceeding minimum required thresholds. It is less conclusive on sunlight, saying that the rooms are in the basement, occupiers expectations will be reduced and that the sunlight received by the rooms is considered to be adequate.
49. Looked at more closely, all but one of the basement bedrooms have an Average Daylight Factor (ADF) at or marginally above the recommended summer and winter minima. The living/dining/kitchens in Apartments 01 and 02 have ADFs of 2.6% and 2.9%, compared with a recommended minimum of 2.0% – and both are north-facing and said to receive no sunlight at all. (In fact, they would face north-west and might receive some low evening sunlight in the summer, albeit through tree growth that is already fairly dense in that direction and could be expected to be reinforced by proposed planting.)
50. The Council's adopted Residential Design Standards of 2011 seek compliance with Building Research Establishment (BRE) Guidelines,⁶ indicate geometric tests that may establish levels of daylight and sunlight and then gives

⁶ Site Layout for Daylight and Sunlight – A Guide to Good Practice, BRE, 1991.

additional tests. The methodology used in the Assessment may be considered appropriate *in lieu* of the geometric tests. The additional tests seek following for all residential development: that at least one main wall with a window should face within 90° of due south; that, where possible, living rooms should south or west; and, encouraged rather than required, that dwellings should be dual-aspect.

51. The problems here are that this is the basement of a listed building and that the Standards themselves may be open to interpretation. Apartment 01 has a main wall facing within 90° of due south, though it is the wall of a bedroom, not a living room. The living/dining/kitchens in Apartments 01 and 02 face roughly north, not south or west. The Apartments are, however, dual-aspect, in that they have bedrooms facing west and east respectively. Thus, one may argue that the Council's standards are not met; on the other hand, it is not at all easy to see how the layout of the basement could be changed without causing greater harm to the character of the listed building.
52. Based on the evidence to the hearing, the originally proposed light wells may be accepted in terms of the amount of daylight and sunlight that could be received within the apartments. On the other hand, it is not at all clear that the reduced light wells proposed as being less harmful to the character of the listed building would enable acceptable daylight and sunlight levels.

Third main issue – overlooking/overbearing

53. For the most part, the distances to the site boundaries and to neighbouring buildings appear adequate – at least for the common situation where habitable rooms are all at ground floor level and there is the opportunity for a 2.0m high boundary fence, wall or hedge. Here, the proposed building would have north-, east- and south-facing balconies at first floor level. They might be no more than about 1.5m above the existing ground level but that would still allow occupiers to see over normal boundary treatments. The appellant offered to delete all balconies from the proposed scheme – but five of the seven rooms served by the balconies are living rooms, so the potential for harmful overlooking would remain, albeit reduced.
54. The south-easterly of the six houses would have east- and south-facing balconies (or windows) affording a view towards the adjacent house and garden to the south-east. The corner of the proposed building would be some 12m from the relevant point on the boundary and at least 25 m from the neighbouring house. That would be an appropriate distance between ground floors but less so with the raised floor level applying here.
55. The north-easterly of the houses would be within 5m of the boundary and the existing vegetation would have to be removed in its entirety to enable construction and to allow acceptable light into and outlook from the house. The houses on the north side of the boundary stand well away but the raised floor of the proposed house would lead to a loss of privacy in the gardens. Also, a 2½-storey building so close to the boundary would be a major change although, given the distance between buildings, perhaps not unacceptable.
56. The house at the north-western corner of the proposed development would be no more than 6m from the boundary with 6 Crescent Wood Road and about 12m, at its closest, from the house itself. The existing garage building stands about 14m from no. 6 and its corner is over 3m further east. There used to be living accommodation on the first floor of the garage but the slightly greater proximity and the angle of vision from the upper ground floor render

what is proposed unacceptable; the new building would be more overbearing and would allow a greater degree of overlooking.

57. The combination of greater distances and existing vegetation to remain mean that the proposed development would have no harmful impact other than in the three instances considered above. The relationship with 6 Crescent Wood Road is enough, however, to justify the Council's concern in respect of harmful overlooking and an overbearing development. That is exacerbated by the impact of the houses at the north-eastern and south-eastern corners of the development, though it is possible that an amended design might offer a satisfactory solution.

Other matters

58. Various matters did not need to be pursued at the hearing. One of the original grounds for contesting the appeal was that the removal of trees would have harmful biodiversity implications; a subsequent Ecology report satisfactorily assuaged the Council's concerns. The offer by the appellant, at the hearing, to accept a condition that the required wheelchair-accessible housing should be provided in the stable block was accepted by the Council; accordingly, the detail of the Council's concerns about the basement apartments did not need to be considered further. The financial contributions originally sought towards education, health, employment and training, strategic transport, the public realm and local open space, play and sport could now be secured through the Council's Community Infrastructure Levy (CIL) scheme, adopted in April 2015. That left only affordable housing to be dealt with in a section 106 obligation and, as indicated above in paragraph 6, it seemed inappropriate to pursue the matter further unless the appeals were to be allowed.
59. The other remaining matter is that the Council considered there had been a significant in policy since planning permission was granted in 1999 for an earlier scheme for conversion of the listed building and development in the grounds. (The point relates more to the alternative scheme than to the application scheme but may nevertheless be dealt with in this decision.) The statutory requirements in s.16 and s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are unchanged but Planning Policy Statement 5 (PPS5) *Planning for the Historic Environment*, published in 2010, presented policy in a different way. There has also been more detailed guidance on how to assess the setting of a listed building and how to establish the significance of a heritage asset (a term introduced by PPS5). Case law has also emphasised the weight to be given to harm to a listed building when weighing the planning balance. All told, however, while these have brought much stronger guidance on how policy should be approached, and major changes to the process, they have not introduced any significant change in policy itself.

Conclusions

60. On the first main issue, Policy 12 of the Southwark Core Strategy, adopted in April 2011, seeks to conserve or enhance the significance of the Borough's heritage assets and their settings. Policies 3.15, 3.16 and 3.18 saved from Southwark Plan 2007 have the same overall purpose. The NPPF sets out national policy on conserving and enhancing the historic environment, in paragraphs 128-134 so far as these appeals are concerned. There is no inconsistency between the Core Strategy, the saved Southwark Plan policies and the NPPF – but the NPPF is the most recent and most logically referred to.

61. The proposals, both the conversion works and the stable block, would cause less than substantial harm to the listed building. Paragraph 134 of the NPPF says that less than substantial harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The only public benefit lies in bringing the listed building back into effective use. Residential use is clearly the optimum use – but the evidence on whether the appeal proposals would bring about the optimum viable use is not convincing. Even if the works to the listed building, including the light wells, were to be found acceptable in the interests of a viable scheme for re-use, the mass and design of the proposed stable block would remain inappropriate to the mass, form, scale and architectural style of the listed building.
62. On the second main issue, Core Strategy Policy 13 seeks high environmental standards in new development, saved Southwark Plan Policy 4.2 seeks good quality living conditions, including high standards of daylight and sunlight and the adopted Residential Design Standards supports that with further detail. Based on the original scheme, what is proposed for the basement of the listed building would meet minimum BRE standards but would fail some of the additional requirements in the Council's Standards. This is, however, an existing building, and a listed one, and it is very difficult to see how a better layout could be achieved without causing greater harm. The amended light wells, being smaller, would reduce the harm but it is unclear that they would provide adequate daylight and sunlight. On balance, however, and based on the originally proposed light wells, dismissal of the appeals, could not be justified on this issue alone.
63. On the third main issue, Core Strategy Policy 13 again applies, supported by saved Southwark Plan Policy 3.2, and resists development that would cause loss of amenity for residents of the surrounding area. The proposed stable block would be overbearing for the occupiers of 6 Crescent Wood Road and cause a harmful loss of privacy, both in absolute terms and in comparison with the situation if the accommodation above the existing garage were in residential use. The relationship of the north-easterly and south-easterly proposed houses with the respective boundaries also gives serious cause for concern – unless design amendments going further than the removal of the balconies could be made, something that cannot be secured by a condition.
64. Overall on the planning appeal, the proposals are unacceptable in terms of the first and third main issues. That arises primarily from the proposed stable block; it would be inappropriate in the setting of the listed building, harming its significance as, originally, a large dwelling in substantial grounds, and would be both overbearing and cause loss of privacy for neighbouring residents. The proposals for the listed building itself could prove acceptable, subject to further detailed design, if they were necessary to achieve the optimum viable use – but the evidence on viability is inadequate and the harm caused by the proposals means that the listed building appeal must fail. Even if the works to the listed building were acceptable, however, the impact of the proposed stable block would still lead to dismissal of both appeals.

John L Gray

Inspector

APPEARANCES

FOR THE LONDON BOROUGH OF SOUTHWARK

Isabella Tafur	Barrister
Rob Bristow	Group Manager, Major Applications
Michael Tsoukaris	Group Manager, Design and Conservation
Adam Greenhalgh	Development Control Officer
Toby Sowter	Corporate Property Team
Alison Squires	Team Leader, Planning Policy
Jon Cowderoy	Occupational Therapist
Afolfo Gonzalez	Tree Officer

FOR MR G CORAM

Greg Coram	Appellant
Doug Brown	Planning consultant
Alessio Cuosso	Architect
Steven Handforth	Heritage consultant
Luke Wooster	Valuations consultant
Andrew Crawford	Quantity Surveyor
Peter Harding	Tree consultant
Vincent Barrett	Structural Engineer
Rouslan Taskou	Structural Engineer

INTERESTED PERSONS

Andy Simmons	Local Councillor
David Morrison	Local resident
Gillian Daly	Local resident

DOCUMENTS submitted at the hearing

- 1 Complete set of original application plans and documents:
 1. existing drawings;
 2. proposed outbuildings;
 3. photo record of existing;
 4. existing interior drawings;
 5. proposed interior drawings;
 6. structural proposals;
 7. ecology report;
 8. Building Regulations submission and consent;
 9. daylight and sunlight report;
 10. archaeology report;
 11. historical plans of house;
 12. arboricultural report;
 13. financial appraisal;
 14. proposed drawings;
 15. Code for Sustainable Homes assessment;
 16. historical plans of grounds.
- 2 Set of plans and documents for alternative scheme:
 1. new alternative drawings;
 2. arboricultural drawings;
 3. financial appraisal.
- 3 Letter of notification of hearing and distribution list.
- 4 Letter of 19 October 2015 from Historic England to the Council.
- 5 Draft section 106 obligation.
- 6 Documentation relating to viability submitted by the appellant.
- 7 Documentation relating to viability submitted by the Council.
- 8 Residential Design Standards Supplementary Planning Document.