



The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000/1625

**NOTE ON LISTED BUILDING CONSENT
APPLICATIONS LONDON BOROUGH OF SOUTHWARK**

Date: 26 July 2022

Appeal References: APP/A5840/Y/22/3290477 and APP/A5840/Y/22/3290490

LPA References: 18/AP/4040 and 21/AP/1364

Appellant: GPE (St Thomas Street) Limited

Site Address: New City Court, 4-26 St Thomas Street, London, SE1 9RS

Introduction

1. This note has been written by the Council in response to the Inspector's request for its view of whether the listed building consent (LBC) proposal for each scheme could be recommended for approval, in the event that the appeals in respect of the applications for planning permission for each scheme were to be dismissed.

Statutory duty

2. In its assessment of the LBC applications that propose works to the grade II listed Georgian terrace on the appeal site, the Council has considered its statutory duty pursuant to Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
3. The listing descriptions for the Georgian terrace are set out in CDF.01. The significance of the terrace is set out in paragraphs 3.45 to 3.47 of the Heritage Statement of Common Ground and Dr Barker-Mill's proof of evidence in paragraph 7.30.

Proposal descriptions

4. The LBC applications for the 2018 and 2021 schemes propose a similar scope of works. The main difference is that the 2018 scheme proposes shopfronts to the rear elevation for the ground and lower ground level shop units, while the 2021 scheme does not as the terrace would be in office use only.
5. Some of the proposed works in the LBC applications would also require planning permission, and so could not be implemented without an appropriate planning permission in place. Other works (e.g. the internal works to re-establish the historic floorplans, replacement of roof slates, replacement windows and secondary glazing, alterations to the vaults, cleaning and repairs) only require LBC.
6. The works underlined within each LBC proposal description below would also require planning permission.

The 2018 LBC scheme (ref. 18/AP/4040):

"Restoration, rebuilding and refurbishment of the listed terrace (nos. 4-16 St Thomas Street) including:

- *Demolition of 1980s fabric across the rear elevation and demolition of the attached 1980s office building, and reinstatement of the rear elevation of the terrace and provision of shopfronts.*
- *Rebuild the second floor, roof and chimneys of no. 16, reskin the side façade and creation of ground floor entrances.*
- *Rebuild the roof and chimneys of no. 14.*
- *Removal and replacement of roof slates with natural slate to nos. 4-12.*
- *Opening up the ground floor passageway between nos. 8 and 10 by removing 1930s door, and reinstate two adjacent door openings on front elevation.*
- *Replacement of two second floor windows on front elevation.*
- *Replacement of secondary glazing to front elevation.*
- *Alterations to the front elevation of the lower ground level and vaults beneath the pavement.*

- *Internal alterations within the terrace to rearrange the ground and lower ground levels for retail units (with new stairs between) and upper levels for office units, reinstate the plan form, internal features and providing a staircase in no.12.*
- *Cleaning the brickwork, works to repair sash windows, restore the railings and first floor balconettes.”*

The 2021 LBC scheme (ref. 21/AP/1361):

“Listed building consent for restoration, rebuilding and refurbishment of the listed terrace (nos. 4-16 St Thomas Street) including:

- *Demolition of 1980s fabric across the rear elevation and demolition of the attached 1980s office building, reinstatement of the rear elevation of the terrace, and recladding and partial rebuilding of rear walls.*
- *Rebuild roof and chimneys, reskin the side façade and front façade at top floor level of 1980s extension.*
- *Rebuild the roof and chimneys of no. 14.*
- *Removal and replacement of roof slates with natural slate to nos. 4-16.*
- *Opening up the ground floor passageway between nos. 8 and 10 by removing 1930s door, and reinstate two adjacent door openings on front elevation.*
- *Replacement of two second floor windows on front elevation.*
- *Replacement of secondary glazing to front elevation.*
- *Alterations to the front elevation of the lower ground level and vaults beneath the pavement.*
- *Internal alterations within the terrace to reinstate the plan form and the internal features, rearrange the circulation between the lower ground and upper levels (with reinstated stairs in between) for office use.*
- *Cleaning the brickwork, repointing, works to repair sash windows, restore the railings and first floor balconettes of the north façade.”*

Council's Statements of Case

7. The Council's Statements of Case of March 2022 set out its view of the two LBC applications, in paragraphs 9.1 to 9.3 for the 2018 scheme, and 9.1 and 9.2 for the 2021 scheme. As referenced at the inquiry, the Council's likely reason for refusal of each LBC application was “parasitic” to each planning application: without a planning permission in place for the elements that also require planning permission to replace removed walls, windows and roof, there is a risk that the special historic interest of the listed terrace would not be preserved.

Consideration

8. In response to the Inspector's request, the Council has given further consideration as to whether the LBC applications could be granted in the event that the planning appeals were to be dismissed, and has reviewed the submitted drawings and documentation for each scheme, having special regard to the statutory duty outlined in paragraph 2 above.
9. A high level of detail was provided in each LBC application in terms of the existing building and the proposed works, to allow the Inspector to make a full and informed assessment. A Listed Building Heritage Statement (CDA.22 and CDB.15), Listed Building Consent Detailed Study (CDA.21 and CDB.20) and Design and Access

Statement (CDA.06 and CDB.08) were submitted along with the drawings and visuals of the proposal.

10. For the 2018 scheme, the proposed LBC works would remove mainly modern fabric installed in the 1980s, and re-establish an appropriate layout by reinstating the party walls on each floor, re-providing the individual front doors and archway, and reconstructing a rear wall to detach the listed terrace from the 1980s office building. The LBC proposal would improve the appearance of the buildings through the brickwork cleaning, restoring the metalwork and their detailing by returning the original roof pitch, the use of natural roof slates and reconstructed chimneys. The proposed works once completed would be beneficial to these historic buildings, reversing some of the harmful work done in the 1980s, improving the external appearance of the buildings and reinstating appropriate historical features to the interior as part of the refurbishment.
11. The 2018 LBC package involves the creation of shopfronts at the rear of the listed terrace which is not a traditional feature of a Georgian house design, and the Council considers this represents a small degree of harm to the historic interest of the historic terrace. This small degree of harm, at the lower end of less than substantial harm, would be outweighed by the wider package of benefits to the listed terrace that come from reinstating features to this historic terrace and undoing some of the harmful changes made in the 1980s. The proposed LBC works are in principle acceptable for the listed buildings because overall they meet the statutory test.
12. Turning to the 2021 scheme, the Council is supportive of the proposed works to the Georgian terrace in the LBC application which would replace the 1980s works with a more appropriate layout, appearance and detailing for these Georgian buildings. The proposed LBC works are in principle acceptable for the listed buildings because they meet the statutory test.
13. Therefore the Council is of the view that two LBC applications could be granted in principle in the absence of consent for the 2018 and 2021 planning application proposals. As noted in paragraph 6 above, this would allow some LBC works to take place without the necessity for a planning permission. However, the full scope of works included in the applications could not be carried out without a planning permission in place. As set out by the Council in its Statements of Case, there is a risk that the special historic interest of the listed terrace would be harmed if external fabric is removed and not replaced. A condition requiring a construction contract is therefore proposed to prevent any external demolition works until a suitable associated planning permission is in place, thus ensuring that the terrace would remain weather tight. With such a condition in place, the Council considers it is appropriate and possible to approve the LBC applications even if the planning appeals are dismissed.

Recommended conditions

14. If the Inspector is minded to recommend approval of the LBC for one or both schemes, the Council would ask for the conditions set out in the appendix to be included. These have been developed from the list of draft conditions that has been revised in discussions with the appellants.

15. There is to be a discussion about conditions as a later part of the inquiry, and it is noted that other parties such as Historic England have comments on the conditions, so the final versions may be further amended before the close of the inquiry.

Conclusion

16. The works to the listed buildings are supported and would improve the appearance of the Georgian terrace with alterations that are more sympathetic than those carried out in the 1980s in terms of the layouts, rear extensions, materials, installing historic features internally and the chimneys.
17. For the 2018 scheme, the package of LBC works is overall considered to be of benefit to the listed terrace, subject to the imposition of conditions to set the time limit, require method statement(s), secure further details and samples of the materials to be used, detailed drawings of particular elements, construction contract(s), and to prevent windows being obscured so that the Council can ensure a suitable finish, detailing and protection of the remaining historic fabric of the listed terrace.
18. For the 2021 scheme, the package of LBC works is considered to be of benefit to the listed terrace, subject to the imposition of conditions to set the time limit, require method statement(s), secure further details and samples of the materials to be used, detailed drawings of particular elements, construction contract(s), and to prevent windows being obscured so that the Council can ensure a suitable finish, detailing and protection of the remaining historic fabric of the listed terrace.
19. In respect of both schemes, the Council considers that a condition is required that prevents any external demolition works until a suitable associated planning permission is in place, thus ensuring that the terrace would remain weather tight.
20. Subject to the recommended conditions, the Council considers the works in each LBC application would preserve the terrace building and any features of special architectural or historic interest that it possesses.

Appendix: Recommended conditions for a listed building consent if planning permission were to be dismissed

2018 scheme

1. TIME LIMIT

The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required under Section 18 of the Planning (Listed Buildings & Conservation Areas) Act 1990 as amended.

2. METHOD STATEMENTS AND SCHEDULE OF WORKS

Prior to commencement of any of the following works on site, a Method Statement(s) and Schedule of Works shall be submitted to and approved in writing by the Local Planning Authority:

- i) Demolition of the modern rear extensions; removal of the second floor, roof and chimneys of no. 16 St Thomas Street and making openings to the side façade; removal of the roof and chimneys of no. 14; removal of the roof slates to nos. 4-12; removing the ground floor door between nos. 8 and 10; removal of the vault front wall;
- ii) The underpinning of the terrace for the adjoining basement excavation;
- iii) Support, protection and repair of the retained façades, floors and roof;
- iv) Cleaning of the brickwork;
- v) Repairs to the sash windows, railings and first floor balconettes.

The development shall not be carried out otherwise than in accordance with any such approval given.

Reason:

In order to ensure that the proposed works are in the interest of the special architectural or historic qualities of the listed building in accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC 1 Heritage conservation and growth of the London Plan (2021) and P19 Listed buildings and structures of the Southwark Plan (2022).

3. DETAILED DRAWINGS

Prior to the commencement of any of the following works, drawings (scale 1:10, 1:20) shall be submitted to the Local Planning Authority and approved in writing to show the elevations, sections, materials and finishes for:

- i) All new fenestration (including lintel, arch, cills) and doors.
- ii) The new and replacement dormer windows.
- iii) The shopfronts to the rear elevation and the railings above.
- iv) Rainwater goods.
- v) Chimney pots.
- vi) The replacement secondary glazing.
- vii) The gates to the ground floor passageway between nos. 8 and 10 St Thomas Street.
- viii) All new staircases (internal and external).

The development shall not be carried out otherwise than in accordance with the approved details.

Reason:

In order to ensure that the design and details are in the interest of the special architectural or historic qualities of the listed building in accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC1 Heritage conservation and growth of the London Plan (2021) and policy P19 Listed buildings and structures of the Southwark Plan (2022).

The following further conditions are considered necessary in the event that LBC is granted, but planning permission refused:

4. MATERIAL SAMPLES

Prior to the commencement of any external works to the Georgian terrace (excluding demolition, site clearance and site investigations), the following details shall be submitted to and approved in writing by the Local Planning Authority:

- a) 1sqm sample panel of brickwork, mortar and pointing for the approved extensions.
- b) Samples of the brick, slate and other materials for the external repairs.
- c) Samples of the material of the gates and passageway surfaces between nos. 8 and 10 St Thomas Street.

The development shall not be carried out otherwise than in accordance with the approved details.

Reason:

In order to ensure that the design and details are in the interest of the special architectural or historic qualities of the listed building in accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC1 Heritage conservation and growth of the London Plan (2021), and P19 Listed Buildings and structures of the Southwark Plan (2022).

5. CONSTRUCTION CONTRACT

A) Prior to commencement of works to the Georgian terrace one or more construction contract(s) for those works (under which one of the parties is obliged to carry out and complete works to the Georgian terrace for which listed building consent has been granted) shall be entered into and evidence of the construction contract shall be submitted to the Local Planning Authority for approval in writing.

B) In addition to part A, prior to commencement of any external demolition works to the Georgian terrace evidence of a suitable planning permission being in place for the external demolition works and redevelopment of the site shall be submitted to the Local Planning Authority for approval in writing.

Reason:

To prevent a partial implementation of the works, to ensure the replacement walls, roof and windows are installed to the listed buildings to protect their historic fabric and to maintain the character and appearance of the Borough High Street Conservation Area. In accordance with Section 16 Conserving and enhancing the

historic environment of the National Planning Policy Framework (2021), policy HC1 Heritage conservation and growth of the London Plan (2021) and P19 Listed buildings and structures of the Southwark Plan (2022).

6. WINDOWS

Unless agreed pursuant to a condition on this permission, the approved window openings to the Georgian terrace building hereby approved shall be clear glass and shall not be painted, covered or otherwise obscured or obstructed without prior written consent of the Local Planning Authority.

Reason:

In order that the Local Planning Authority may be satisfied as to the design of these listed buildings, in the interest of their appearance and the frontages remain active and retaining a relationship with the public realm and streets in accordance with policies D4 Good quality design of the London Plan (2021) and P14 Design quality and P19 Listed buildings and structures of the Southwark Plan (2022).

2021 scheme

1. TIME LIMIT

The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason:

As required under Section 18 of the Planning (Listed Buildings & Conservation Areas) Act 1990 as amended.

2. METHOD STATEMENTS AND SCHEDULE OF WORKS

Prior to commencement of any of the following works on site, a Method Statement(s) and Schedule of Works shall be submitted to and approved in writing by the Local Planning Authority:

- i) Demolition of the modern rear extensions; removal of the second floor, roof and chimneys of no. 16 St Thomas Street and making window openings to the side façade; removal of the roof and chimneys of no. 14; removal of the roof slates to nos. 4-12; removing the ground floor door between nos. 8 and 10; removal of the vault front wall;
- ii) The underpinning of the terrace for the adjoining basement excavation;
- iii) Support, protection and repair of the retained façades, floors and roof;
- iv) Cleaning of the brickwork;
- v) Repairs to the sash windows, railings and first floor balconettes.

The development shall not be carried out otherwise than in accordance with any such approval given.

Reason:

In order to ensure that the proposed works are in the interest of the special architectural or historic qualities of the listed building in accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC 1 Heritage conservation and growth of the London Plan (2021) and P19 Listed buildings and structures of the Southwark Plan (2022).

3. DETAILED DRAWINGS

Prior to the commencement of any of the following works, drawings (scale 1:10, 1:20) shall be submitted to the Local Planning Authority and approved in writing to show the elevations, sections, materials and finishes for:

- i) All new fenestration (including lintel, arch, cills) and doors.
- ii) The new and replacement dormer windows.
- iii) Rainwater goods.
- iv) Chimney pots.
- v) The replacement secondary glazing.
- vi) The gates to the ground floor passageway between nos. 8 and 10 St Thomas Street.
- vii) All new staircases (internal and external).

The development shall not be carried out otherwise than in accordance with the approved details.

Reason:

In order to ensure that the design and details are in the interest of the special architectural or historic qualities of the listed building in accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC1 Heritage conservation and growth of the London Plan (2021) and policy P19 Listed buildings and structures of the Southwark Plan (2022).

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- a) 1sqm sample panel of brickwork, mortar and pointing for the approved extensions.
- b) Samples of the brick, slate and other materials for the external repairs.
- c) Samples of the material of the gates and passageway surfaces between nos. 8 and 10 St Thomas Street.

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A) Prior to commencement of works to the Georgian terrace one or more construction contract(s) for those works (under which one of the parties is obliged to carry out and complete works to the Georgian terrace for which listed building consent has been granted) shall be entered into and evidence of the construction

contract shall be submitted to the Local Planning Authority for approval in writing.

B) In addition to part A, prior to commencement of any external demolition works to the Georgian terrace evidence of a suitable planning permission being in place for the external demolition works and redevelopment of the site shall be submitted to the Local Planning Authority for approval in writing.

Reason:

To prevent a partial implementation of the works, to ensure the replacement walls, roof and windows are installed to the listed buildings to protect their historic fabric and to maintain the character and appearance of the Borough High Street Conservation Area. In accordance with Section 16 Conserving and enhancing the historic environment of the National Planning Policy Framework (2021), policy HC1 Heritage conservation and growth of the London Plan (2021) and P19 Listed buildings and structures of the Southwark Plan (2022).

6. WINDOWS

Unless agreed pursuant to a condition on this permission, the approved window openings to the Georgian terrace building hereby approved shall be clear glass and shall not be painted, covered or otherwise obscured or obstructed without prior written consent of the Local Planning Authority.

Reason:

In order that the Local Planning Authority may be satisfied as to the design of these buildings, in the interest of their appearance and the frontages remain active and retaining a relationship with the public realm and streets in accordance with policies D4 Good quality design of the London Plan (2021) and P14 Design quality and P19 Listed buildings and structures of the Southwark Plan (2022).