

Date: 15/03/2024
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The Planning Inspectorate
Room 3/23
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Dear Planning Inspector,

Appeal/ planning reference	Site at:	Development description
Your Ref: 2022/3757/P Our Ref: APP/X5210/W/23/3329051 APP/X5210/Y/23/3329052	Doughty Street Chambers, 53-54 Doughty Street, London, WC1N 2LS	Replacement of existing stepped access to number 54 Doughty Street with a platform lift to provide wheelchair access.
Your Ref: 2022/3756/P Our Ref: APP/X5210/W/23/3329049 & APP/X5210/Y/23/3329050	Doughty Street Chambers, 10-11 Doughty Street, London, WC1N 2PL	Replacement of existing stepped access to number 54 Doughty Street with a platform lift to provide wheelchair access.

Appeals on behalf of Mr Terrance Mundru, Doughty Street Chambers in respect of refusal of Listed Building Consent under section 20 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 and a Planning Application Appeal under the Town and Country Planning Act 1990

The Listed Building Consent Applications (2022/4667/L and 2022/4669/L) and Planning Permission Applications (2022.3756/P and 2022/3757/P) were both refused under delegated powers on 7 March 2023 with the same Reason for Refusal for both properties:

- 1. The proposed works, by virtue of the detailed design and loss of historic fabric, combined with the prominent position of the entrance steps, would have a detrimental impact on the character and appearance of the host building which is Grade II listed, and the Bloomsbury Conservation Area,*

contrary to Policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

The Council wishes to rely on its *Delegated Report*, which sets out the decision-making process which led to the refusal of permission and a copy was sent with the questionnaire. However, the appellant's *Appeal Statement Ref: AM-P 23033 September 2013* and accompanying post-determination Heritage Appeal Statement *Ref: JCH02026 Doughty Street August 2023* raises some points in defence of the appeal which the Council hereby wishes to identify as new (post-determination evidence) and some which the Council also wishes to refute. I would be pleased if the Inspector could take into account the comments below before deciding the appeals.

There are several limitations in the application's supporting information. The Stepless SLP D model is a small platform lift without railings, designed for recessing into the floor in front of a landing. The manufacturer's website describes the lift as a customised platform lift designed for indoor use. It is finished with the same surface as the floor to ensure that the solution is as discreet as possible. No detail has been provided related to floor finishes and the section drawings. The product is described as an internal lift and the application provides an example of the platform used inside a church. As the lift is intended for internal use it is not clear how it will weather or operate outside in the long term. The proposed sections in the specification pack show both steps being removed and replaced with a single platform lift rather than two steps as is the existing at both sites. The application has provided no section of the existing temporary ramp to enable assessment. There is no mention of whether a lower gradient ramp could be required on no. 53 Doughty Street.

In terms of the *Appeal Statement* the following points are not agreed:

5.3. The report demonstrates that the proposed development accords with relevant legislation, national planning policy and local planning policy and guidance. It concludes that the development is of extremely high quality and has been sensitively designed. The internal layout of the appeal site is already utilised effectively by disabled persons. A ramp, lift, wide doorways and circulation spaces, accessible kitchen and bathroom facilities, a vertical lift and automatic doors, all facilitate existing wheelchair access. The only restrictions on wheelchair access and thus the only required changes relate to the entrances to the appeal sites.

None of this evidence formed part of the submission prior to determination. A lift is shown on the existing drawing for Number 54 Doughty Street (it appears on permitted drawings from 1989 application reference 8970081) but it could not be taken into consideration as providing adequate access in the absence of an access strategy (as requested) because it is unclear if it satisfies the requirements for an accessible lift.

5.10. *Wheelchair users are currently largely excluded from accessing both appeal sites as they are only accessible via 2 steps. Wheelchair users are therefore dependent upon portable aluminium ramps which are stored in the entrances to the buildings and need to be correctly positioned and removed by other members of staff. Two ramps are required to provide access from street level into the building and these take time to be positioned. Whilst portable ramps have been used for some years they have proved extremely awkward and highly inappropriate as a long-term solution. The incline is much greater than ordinarily permitted for a ramp and very difficult for a manual wheelchair to propel up. Many wheelchair users push up the ramp independently and it is an affront to human dignity for a wheelchair user who does not need to be pushed to have to accept being pushed up to the entrance. Furthermore, the ramp is so steep that there is a risk of toppling backwards which could result in serious injury.*

None of this evidence formed part of the submission prior to determination. An access strategy was requested in line with Historic England's Advice¹ (see Pre-application advice and Delegated Report). It was not given to the Council and the applications had to be determined on the basis of the information provided, which was minimal. . The existence of disabled accessible lavatories in Number 10 (or Number 11) is very unclear from the information provided.

5.11. *Furthermore, the temporary ramps prohibit disabled people from working independently outside of office hours when assistance is unavailable (a prerequisite for the profession of barrister). It is also uncomfortable and extremely difficult when a wheelchair user is left outside on the public highway, potentially in inclement weather whilst someone is located to position the temporary ramp and it also devalues disabled people's time.*

None of this evidence formed part of the submission prior to determination. An access strategy was requested in line with Historic England's Advice (see Pre-application advice and Delegated Report). It was not given to the Council and the applications had to be determined on the basis of the information provided, which was minimal.

5.18. *A permanent ramp has been installed along the corridor of no. 54 between the 'waiting area' as identified on plan DC 5401/02 and the seminar hall. This provides step free access to enable wheelchair users and those with reduced mobility safe access to the seminar room which is in frequent use. The ramp also grants access to three lower ground floor meeting rooms via a lift. Although small in size, the lift is big enough for standard manual wheelchairs (and probably for compact power chairs) and therefore useable by most wheelchair users. An accessible WC is also available on the ground floor of no. 54. The provision of a platform lift at the entrance of no. 54 will enable inclusive and safe wheelchair access to the entire ground floor of the building and provide wider public benefit as set out below.*

¹ Easy Access to Historic Buildings, Historic England, 2015

None of this evidence formed part of the submission prior to determination. An access strategy was requested in line with Historic England's Advice (see Pre-application advice and Delegated Report). It was not given to the Council and the applications had to be determined on the basis of the information provided, which was minimal. The accessible status of the lift, lavatories etc in Number 54 is unknown as there is no disabled access strategy for the building.

6.3. The submitted Heritage Appeal Statement concludes that the proposed development would have a negligible impact on the significance or special architectural and historic interest of the listed building and cause no harm to the significance of the Bloomsbury Conservation Area.

This is entirely refuted. Firstly, "negligible" is not a degree of impact or harm under the NPPF and its attendant policies. Regardless of the balancing of the harm against public benefit the Council contends that the proposals clearly cause less than substantial harm to the special architectural and historic interest of the listed buildings and to the character and appearance of the conservation area.

6.5. The Council have failed to weigh the public benefits of the scheme against the lowest level of less than substantial harm, as required by the NPPF and furthermore the proposals would sustain the viable use of the buildings as a law firm's office, providing a safe, dignified and accessible passage through the main entrance.

The Council weighed the public benefits of the scheme against the level of less than substantial harm (at a medium level) on the basis of the supporting information provided at the time of the application. The Council invited the submission of evidence on the public benefit side of the balance and unfortunately such evidence was never received. Therefore the applications were refused on the basis of the information that was submitted and available to the Council at that time entirely in accordance with the NPPF.

6.6. The appeal proposal does not conflict with Local Plan policies D1 and D2 and represents a reasonable and proportionate approach to achieving step-free access to the building for the benefit of its employees and wider members of the public. It is respectfully requested that the appeals are allowed.

The appeal proposal was not refused on the basis of being "unreasonable" but of proposing less than substantial harm when options which cause no harm are available. A sub-optimal option from the point of view of the appellant does not automatically equate to an unfeasible or unreasonable option in the balance of the NPPF and other heritage policies. Achieving parity of access to designated heritage assets will usually require compromise on both sides (in addition to a body of supporting evidence as to what the existing provision is). The Council was presented with one option, identified that option as harmful, requested information on the wider access strategy in order to more fully assess the impact and viability of the option, and did not receive that information prior to determination.

In respect of the *Heritage Appeal Statement* the Council does not agree with the following:

As described in this Statement, and contrary to the Planning Officer's Delegated Report, the internal layout of the appeal site is already utilised effectively by disabled persons. A ramp, lift, wide doorways and circulation spaces, accessible kitchen and bathroom facilities, a vertical lift and automatic doors all facilitate existing wheelchair access. (Page i)

None of this information is within the application documents as submitted for determination. As far as the Council is aware there is no lift within Number 10 Doughty Street. There is no record of listed building consent ever having been granted for a lift or automatic doors at the appeal site (Numbers 10 and 11 Doughty Street) and there is no evidence of a lift or accessible lavatories within these properties in the application documents. Information pertaining to all of these matters were asked for as part of the assessment and determination of the application, and were not provided to the Council.

In comparison to the scale of the Bloomsbury Conservation Area and the fact that variability is evident in the extant entrances of the buildings and terraces on Doughty Street, the appeal scheme would cause no harm to the significance of the Bloomsbury Conservation Area. (page ii)

It is self-evident that harm can be caused to the character and appearance of a conservation area not only through changes which have a wide visual impact on the area, but also through changes which harmfully affect the positive contribution which an individual asset or feature makes to the overall character and appearance of an area, i.e. as part of a collective contribution or an accumulation of small positive elements. It is wrong to imply the scale of the appeal scheme cannot harm the character and appearance of the conservation area because it is not of sufficient scale to visually impact the entirety of Bloomsbury. It is also clearly wrong to argue that *increasing* the variability of extant historic entrance designs (including demolition of listed historic fabric and the introduction of new machinery) cannot cause harm. The assertion has absolutely no basis in guidance, policy, or basic good-practice in the historic environment.

Summary

The determination of the applications could only be made on the basis of the supporting evidence submitted as part of the application, and every opportunity and fair warning was given regarding the need for such evidence prior to the determination of the applications.

Nonetheless, the Council's assessment of the level of harm caused by the appeal scheme has not changed in the face of the new evidence.

The statutory obligation to "preserve or enhance" is partly contingent on both the prevailing character of a conservation area and on the particular character of whichever site is subject to an application for alteration. In this instance the front steps and lightwell retain their historic fabric, structural integrity, function and appearance and their significance relates to the special architectural and historic interest of the listed building (appeal site) the setting of neighbouring listed

buildings of the same period (de facto the whole of Doughty Street) and the otherwise positive contribution which the site makes to the character and appearance of the Bloomsbury Conservation Area. The appeal proposal alters significance at all of these levels, and in so doing fails to preserve the significance of the listed building, and fails to preserve or enhance the positive contribution which the site currently makes to the character and appearance of the conservation area.

Conclusion and planning balance

Under the Act and its attendant policies the greatest weight is given to the matter of the special architectural and historic interest of the GII-listed building and the setting of neighbouring listed buildings:

Section 66(1) of the Listed Buildings Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting, the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

The effect of the proposal is to cause less than substantial harm to the special architectural and historic interest of the listed building and to cause harm to the setting of neighbouring listed buildings due to the loss of historic form, function and fabric and manner in which the design and appearance of the proposed works would harmfully dilute the strength of the existing historic appearance of the assets.

Under the Act and its attendant policies, the Council is also directed to consider: *Section 72(1) of the Listed Buildings Act 1990 In the exercise of various functions under the Planning Acts in relation to land in conservation areas (including determination of planning applications) the Council is required to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.*

The effect of the proposal is failure to preserve or enhance the otherwise positive contribution which the appeal site makes to the character and appearance of the conservation area, and in that matter the proposal is also found to cause less than substantial harm to significance.

The Appellant Statement of Case notes that the buildings are used by a wide range of visitors not just related to its use as a law firm, but also as a regular seminar and networking events which are hosted in the large seminar room and attended by other professionals. The Chambers also have several wheelchair-accessible conference rooms that are apparently in daily use.

As stated in the Officer Report Local Plan policy C6 promotes fair access and the removal of barriers that prevent everyone from accessing facilities and opportunities. The council will expect all buildings and places to meet the highest practicable standards of accessible and inclusive design so they can be used

safely, easily and with dignity by all. Paragraph 4.99 of the Local Plan states that *“the Council will balance the requirement to provide access with the interests of conservation and preservation. We will seek sensitive design solutions to achieve access for all, to and within listed buildings.”* Therefore the principle of a disabled ramp to a residential property is supported subject to heritage considerations.

The Council maintains that the application was properly refused listed building consent and planning permission and respectfully requests that the Inspector dismisses the appeal accordingly.

Unfortunately one of the reasons the application had to be refused was the substantial lack of information necessary for assessment. While requests for more information were put the appellant prior to determination this was not forthcoming and so a considerable number of conditions will be needed if the appeal is to be allowed. Should the Inspector be minded to allow the appeal the Council suggest the following conditions set out below.

2022/3757/P 3329051 Conditions:

Suggested Conditions

The Council respectfully suggests the following for the Inspector’s consideration:

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason: Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development shall be carried out in accordance with the following approved drawings:

5401/06, 5401/02, 5401/04, 5401/03, 5401/05, 5401/01, BL-DCS-SLP-001, BL-DCS-SLP-002, BL-DCS-SLP-003

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

3. Prior to the commencement of the works full details of the lift call button, including its materials, finish, siting, fixing, and any cabling to it, as well as any new cable runs and circuit boxes, control boxes or displays, automatic door openers and their siting and cable runs, shall be submitted to the local planning authority and approved in writing. The works shall be carried out in accordance with the approved details.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

4. Prior to the commencement of the works, full details, including layouts and sections at 1:2, 1:5, and 1:10 of the finishes to the steps including the tiling/jointing pattern, and any other detail necessary for the determination of the acceptable appearance of the works, shall be submitted to the local planning authority and approved in writing. The works shall be carried out in accordance with the approved details.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

5. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture, those of the existing building, unless otherwise specified in the approved application.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

6. All historic ironwork shall be retained in situ, including boot scrapers where extant.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

2022/3756/P 3329052 Conditions:

The Council respectfully suggests the following for the Inspector's consideration:

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason: Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development shall be carried out in accordance with the following approved drawings: 5038/06, 5038/02, 5038/04, 5038/05, 5038/01, 5038/03, BL-DCS-SLP-001, BL-DCS-SLP-002, BL-DCS-SLP-003

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

3. Prior to the commencement of the works full details of the lift call button, including its materials, finish, siting, fixing, and any cabling to it, as well as any new cable runs and circuit boxes, control boxes or displays, automatic door openers and their siting and cable runs, shall be

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6. All historic ironwork shall be retained in situ, including boot scrapers where extant.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy D2 of the Camden Local Plan 2017.

If any further clarification of the appeal submissions is required, please do not hesitate to contact Josh Lawlor on the above direct dial number or email address.

Yours sincerely,

Josh Lawlor
Planning Officer