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## Appeal Decisions

Site Visit made on 25 August 2021

**by Jillian Rann BA (Hons) MSc MRTPI**

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

**Decision date: 29 September 2021**

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### **Appeal A: APP/X5210/W/21/3268083**

#### **Bull & Gate Public House, 389 Kentish Town Road, London NW5 2TJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Young & Co's Brewery PLC against the decision of London Borough of Camden.
  - The application Ref 2020/2205/P, dated 20 May 2020, was refused by notice dated 30 September 2020.
  - The development proposed is described as: "Operational development associated with a new external terrace area to the front of the public house at first floor level; new plant equipment, a new bin store and an access staircase to the rear of the public house".
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### **Appeal B: APP/X5210/Y/21/3268088**

#### **Bull & Gate Public House, 389 Kentish Town Road, London NW5 2TJ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Young & Co's Brewery PLC against the decision of London Borough of Camden.
  - The application Ref 2020/2907/L, dated 20 May 2020, was refused by notice dated 30 September 2020.
  - The works proposed are described as: "Operational development associated with a new external terrace area to the front of the public house at first floor level; new plant equipment, a new bin store and an access staircase to the rear of the public house".
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### **Decision**

1. **Appeal A** is dismissed.
2. **Appeal B** is dismissed.

### **Preliminary Matters**

3. The appeals relate to a grade II listed building. The Council's reasons for refusal refer only to certain aspects of the proposed works. However, I am mindful of my statutory duties under sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and I have considered the appeals accordingly, taking into account all works proposed.
4. Since the Council refused the application, The London Plan: The Spatial Development Strategy for Greater London March 2021 (the London Plan 2021) has been published. I have considered the appeals accordingly and I have given the main parties the opportunity to comment on the London Plan 2021.
5. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have given the main parties the opportunity to comment on this and have considered the appeals on the basis of the revised Framework.

## **Main Issues**

6. The main issues are:

- whether the proposals would preserve the grade II listed building, the Bull and Gate Public House, 389 Kentish Town Road, and any of the features of special architectural or historic interest that it possesses;
- the effect of the proposals on the setting of the grade II listed building, 1 to 7 Highgate Road; and
- the effect of the proposals on the character and appearance of the surrounding area.

## **Reasons**

### *Special interest, setting and existing character and appearance*

7. The appeals relate to the Bull and Gate, a grade II listed public house located in a predominantly commercial area close to Kentish Town station. The existing building dates from the late 19<sup>th</sup> century, and replaced an earlier public house on the site.
8. The building's first and second floors are set back from the road. Each of those upper floors has a wide, central opening with two further sash window openings on either side of it, all with consistent sill levels. There is therefore a very strong regularity and symmetry to the upper floors of the building. To the front, a slightly later single storey addition extends the ground floor up to the footway. It is wider than the upper floors and has wide bays with large areas of glazing and elaborate detailing, and a relatively low parapet around the edge of its flat roof. Internally the building has retained much of its ornate architectural detailing. On the first floor, this includes high skirtings and panel detailing, which run at a regular height around the lower parts of the walls and below the sills of the large sash windows at the front of the first floor.
9. Insofar as it relates to these appeals, the special interest of the listed building is drawn from its historic interest as a Victorian public house in the gin palace style, from its historic fabric, architectural detailing and fenestration, including the strong rhythm and symmetry of its upper floors, and from its plan form and ornate internal detailing.
10. As a well-preserved Victorian public house, located at a busy road intersection, with distinctive architectural detailing and a strong symmetry and rhythm to its upper floors which are visible above its decorative ground floor frontage, the Bull and Gate is a positive feature of the street scene and its wider commercial surroundings.
11. 1 to 7 Highgate Road is a grade II listed terrace of 3 and 4 storey houses next to the appeal site. It was built in the late 18<sup>th</sup> century, with later alterations. Although residential, its surroundings are bustling and urban in nature and largely characterised by commercial development, including shops, cafes and drinking establishments around the nearby busy road junction. Those commercial uses, including the appeal site, and the activity associated with them are largely concentrated at street level and on the lower floors of those surrounding buildings, but are part of the setting of the neighbouring listed building.

*Works to create a roof terrace to the front of the building*

12. Various works are proposed to the Bull and Gate building to create a roof terrace on the flat roof of the ground floor front projection.
13. The works include the addition of metal railings above the existing parapet. Photographs of the building from 1904 show a more decorative parapet around the edge of the flat-roofed front section of the building than that which exists at present. However, it appears to be in the same position as, rather than additional to, the existing parapet. Neither those images nor later photographs indicate that there was also a railing or balustrade present on top of that parapet. Nor have I been presented with substantive evidence to demonstrate that the roof of the ground floor projection has been used as a roof terrace previously, that it was specifically built for such a purpose or that there would thus be any reason for the presence of a railing or balustrade above the parapet.
14. In the absence of evidence indicating a historic precedent for such a feature, the addition of metal railings above the existing parapet would appear incongruous, give the parapet an unduly tall, heavy and dominant appearance, and disrupt views of the Bull and Gate's upper floors behind it. Those effects, and the harm arising, would not be alleviated by the provision of planting behind the railings.
15. Reference has been made to a wrought iron detailing around the edge of the ground floor flat-roofed projection at the grade II listed Assembly House Public House close to the site. However, that existing metal balustrade is located directly on top of the building's flat roof, rather than being fixed to the top of a parapet as is proposed in this case. Therefore, it is not directly comparable to the proposal before me and its presence does not alter my conclusions above regarding the proposed metal railings.
16. The removal of one of the existing timber-framed sash windows on the first floor and the enlargement of that existing opening to create a doorway would result in the loss of historic fabric, including the window itself, together with its sill, historic brickwork and internal panelling below it.
17. The lowering of the sill level of that existing first floor window, and the taller opening that would be created, would appear highly discordant and would disrupt and erode the strong rhythm and symmetry of the first floor window openings and the appearance of the upper part of the building.
18. Even if the proposed door were designed with a central horizontal bar and similar glazing pattern to the sash window, it would not look like a window. It would appear as a door, identifiably different from the existing window and the other first floor sash windows which would remain, including with regard to its appearance, sectional detail, proportions and method of opening. It would be an incongruous and inauthentic intervention which would harm the legibility, symmetry and appearance of the building.
19. The lower parts of the upper floor windows are screened from street level to some degree. Nevertheless, the height of the door and its evident differences compared to the remaining first floor windows, and thus the harm arising, would be evident from inside the building, from the proposed roof terrace and from the upper floors of buildings opposite.

20. The proposed works would enable the use of the roof as an outdoor terrace at first floor level. However, I have not been presented with substantive evidence to establish a prior use of the existing flat roof as a terrace, or that it was intended for such a use. The use as a terrace and outdoor seating area would result in the introduction of associated paraphernalia such as umbrellas and heaters which would not fall under planning control. Nor am I convinced, from the submissions before me, that such items could be restricted prevented via planning conditions. In any event, even if such items were not to be used, the provision of seating and the activity associated with an outdoor dining area at that prominent first floor level and across the large flat roofed area would appear incongruous in the context and against the backdrop of the Victorian public house.
21. Therefore, even if the works necessary to strengthen the flat roof to support the proposed terrace could be carried out without affecting historic fabric of significance, the other works which are proposed in order to create and provide access to the terrace, and the use of the flat roof as a terrace, would fail to preserve the special interest of the listed building.
22. Although the site's surroundings are commercial in nature, those commercial uses and the areas of external activity associated with them are largely limited to street level. The large size of the proposed terrace and introduction of associated activity and external paraphernalia at the prominent first floor level would appear discordant against the backdrop of the public house and within the wider street scene, and would cause harm to the setting of the neighbouring residential buildings at 1 to 7 Highgate Road and to the character and appearance of its wider surroundings.
23. I have been referred to approvals granted for roof terraces at other public houses in the borough and elsewhere in London. However, from the limited information before me I cannot be certain of the circumstances in which those other roof terraces were approved or that they were directly comparable in all respects to those in the appeals before me. In any event, I have considered the appeals on their own planning merits.

*Works to create a fire lobby on the first floor*

24. The proposed partition screens would have glazed upper sections and moulded panel detailing to their lower sections. Nevertheless, they would subdivide and erode the historic plan form, spatial character and proportions of the large landing area, and dilute the sense of arrival that it provides at the top of the stairs and at the entrance to the large first floor public rooms at present.
25. The floor level would be raised in part of the newly-created lobby, to bring it level with the bottom of the proposed door leading onto the roof terrace. The heights of the skirting, dado and wall panelling around that part of the lobby would also be raised, to reflect the raised floor height. Even if the existing skirting, dado rails and panelling were re-used, those works would harmfully alter the vertical proportions of that part of the room and erode the strong, regular pattern and alignment of those internal wall details, which otherwise characterises the first floor. They would therefore harm the legibility and integrity of that first floor space.
26. It has been indicated that the works to raise the floor height and install the partitions would be reversible. However, as the changes would be part of wider

alterations to create a first floor terrace and alter the adjacent window opening to create a door to that area, I am not persuaded that such a reversal would be likely in practice once such works were carried out. Furthermore, the harm I have identified would persist while those features were in place in any event.

*Fire escape to rear*

27. Although the rear elevation of the building has been altered and some of its historic windows replaced, it has retained elements of its historic detailing, including around some of its windows.
28. An existing first floor window would be removed and the opening enlarged to create a fire door, which would lead onto an external fire escape comprising a bridge across the rear yard and a metal staircase alongside the building on the other side of the yard. Most of the fire escape staircase and bridge would be located away from the rear elevation of the building and would not disrupt or harm its appearance.
29. As the window to be removed is a replacement, double-glazed unit, its removal would not result in the loss of historic fabric. However, from the evidence before me I cannot be certain of the exact nature, extent or potential significance of any historic fabric which would be removed from below the existing window opening in order to enlarge it and create a doorway.
30. The submitted drawings also include an annotation which states: 're-glaze windows with one hour FR glass where within 1800mm from fire escape stairs'. However, the amount of detail regarding the extent and nature of those works indicated is very limited. Therefore, from the information before me I cannot be certain of exactly what those works would entail or whether they would have implications for any historic fabric which may remain within the windows affected.
31. Therefore, insufficient information has been provided to allow the potential impact of the works associated with the installation of the fire escape staircase to be understood, as required by paragraph 194 of the Framework.

*Other works to the rear*

32. The relocation of existing condenser units at ground floor level on the rear of the building would not give rise to any further harm compared with the existing situation. The creation of an enclosed bin store area within the rear service yard would not be inconsistent with the function of that rear yard or harmful to the special interest of the Bull and Gate or the setting of 1 to 7 Highgate Road. As these works would be to the rear of the building and would not feature prominently in any public views, they would not cause harm to the character or appearance of the wider surroundings.

*Conclusion on the main issues*

33. For the reasons given, I conclude that the proposals would harm the listed building, the Bull and Gate Public House, and the setting of the neighbouring listed building, 1-7 Highgate Road. Given the scale of the works, the harm arising would be less than substantial. However, I give considerable importance and weight to that harm and to the presumption that preservation is desirable. The Framework requires any such harm to be weighed against the public benefits of the proposal.

34. The Bull and Gate does not have an outdoor dining area at present. The appellant has stated that the provision of such a space would support the long-term viability of the public house. In that context, I have been referred to London Plan and local plan policies and supplementary guidance in Camden Planning Guidance: Community Uses, Leisure Facilities and Pubs (the Community Uses CPG), which refer to the closure of public houses in London and express support for the retention of public houses as community facilities. I have considered the appeals in the light of those policies and guidance.
35. Reference has been made to the effect that the Bull and Gate's lack of outdoor seating space has had on its income, particularly in the summer months. I recognise that having an outdoor space is likely to be of some benefit to a public house, particularly in the summer. I also acknowledge the effects that the Covid-19 pandemic has had on public houses and the benefits of having an outdoor dining area in that context.
36. I have been provided with some limited financial information in the form of a table comparing the summer and winter trade figures of the Bull and Gate with those of two other public houses in inner suburban locations which have outdoor space. However, I have little further detail regarding those other public houses. Therefore, I cannot be certain whether they are directly comparable in all other respects to the appeal property or that the differences highlighted are solely attributable to the Bull and Gate's lack of outdoor space.
37. Furthermore, I have not been provided with any further information to enable me to understand or consider those summer and winter trade figures in the context of the Bull and Gate's overall financial circumstances. In the absence of a detailed viability appraisal including such information, it has not been shown that the Bull and Gate would be at demonstrable risk of closure if an outdoor seating area was not provided, or that the proposed works and roof terrace are therefore necessary in order to preserve the public house as a community facility or secure the optimal viable use of the listed building.
38. Consequently, although the roof terrace may provide some financial benefits to the public house, and an outdoor area would be of some public benefit, in the context of the public house as a community facility, I afford those benefits only moderate weight based on the evidence before me. They do not outweigh the great weight and importance that I attach to the harm to the significance of designated heritage assets that would arise as a result of the creation of the roof terrace and associated works.
39. The provision of a fire escape route at the rear of the first floor would be a notable public benefit in terms of public safety, and would carry substantial weight when balanced against the harm that would arise from the works to the rear of the building which would be required to provide it. However, the public benefits of providing a fire escape to the rear would not justify or outweigh the harm that would arise as a result of the other works proposed, including those associated with the creation of the roof terrace at the front of the building and the subdivision of the internal lobby, in the absence of substantive evidence to demonstrate that those other harmful works are necessary in order to provide the improved fire escape access to the rear.
40. I have taken account of representations from interested parties, including local residents and community groups, expressing support for the scheme. However, for the reasons given the public benefits of the scheme, even taken

cumulatively, would not outweigh the harm to the listed buildings that I have identified. Nor would those benefits outweigh the harm to the character and appearance of the wider surroundings.

41. Given the above, I conclude that the proposals would cause harm to the special interest of the grade II listed building, the Bull and Gate Public House, 389 Kentish Town Road, and harm to the setting of the grade II listed building, 1 to 7 Highgate Road. The proposed roof terrace and associated external works would also cause harm to the character and appearance of the surrounding area. For the reasons given, the harm arising would not be outweighed by the public benefits put forward in support of the proposals. The proposals would therefore conflict with Policies D1 and D2 of the Camden Local Plan and Policy D3 of the Kentish Town Neighbourhood Plan which require high quality design and that proposals preserve or enhance heritage assets and reinforce local character.

### **Other Matters**

42. I note comments made regarding the Council's handling of the application. However, my conclusions are based on the planning merits of the case. Matters relating to the Council's handling of the application have not formed part of my consideration of the appeals or been taken into account in reaching my conclusions.

### **Conclusions**

#### *Appeal A*

43. The proposed development would conflict with the development plan taken as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that **Appeal A** should be dismissed.

#### *Appeal B*

44. For the reasons given, I conclude that **Appeal B** should be dismissed.

*Jillian Rann*  
INSPECTOR