



Appeal Decision

Site visit made on 16 September 2019

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2019

Appeal Ref: APP/N5660/W/19/3226589
50 Clapham High Street, London SW4 7UL

- 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 Clapham Taverns Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/03444/FUL, dated 9 August 2018, was refused by notice dated 20 December 2018.
 - The development proposed is the formation of roof terrace at first floor level on the flat roof of the single storey front extension in association with A4 use, including the erection of balustrades.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council has recently granted planning permission for the redevelopment of the appeal property and construction work was well underway at the time of my site visit. Even so, most of the site was available to public view and I saw all I needed to fully assess the proposal.

Main issues

3. The main issues are the effect of the proposed development firstly, on the conditions of the occupiers of 52 Clapham High Street with particular regard to privacy; and secondly, on the character and appearance of the local area.

Reasons

The conditions of the occupiers of No 52

4. A roof terrace is proposed on the flat roof of the single storey forward projection of No 50. It would form a platform where customers of the restaurant within the host building would gather and stand or sit outside. Given the outward projection from the main building and elevated position of the new roof terrace, the proposal would facilitate a range of views that are not currently available.
5. In particular, some overlooking would be possible towards the front windows of the attached property, No 52, which, from the appeal evidence, is in use on all floors as offices. Anyone standing or sitting on the new roof terrace would have a reasonably close view into the first floor windows of No 52, with those

towards the nearest window being almost direct. The privacy of the occupiers of No 52 would be seriously compromised as a result.

6. The question then arises whether conditions could be imposed to overcome these overlooking problems. A screen could be placed along one side of the proposed roof terrace to shield the first floor windows of No 52. However, to be effective, such a measure would need to be considerable in size, height and length that in turn would cause it to feel oppressive especially when seen from the nearest first floor window of No 52 to the appeal property. The area available for sitting and standing could be restricted to that part of the proposed terrace furthest away from the shared boundary with No 52. However, the resultant space available for users would be modest and it is likely that the restriction would be unreasonable on the business operation. Consequently, such a condition would not meet at least one of the tests of conditions set out in the National Planning Policy Framework (the Framework).
7. In my experience, some overlooking is often a common characteristic of the relationship between adjacent properties in tightly knit built up areas such as this. However, in this instance, the views possible from the new roof terrace towards the front windows of No 52 would be highly intrusive. That No 52 is not in residential use does not diminish the significance of the harm that I have identified on the occupiers of this neighbouring property.
8. On the first main issue, I conclude that the proposed roof terrace would unacceptably harm the conditions of the occupiers of No 52. Accordingly, it conflicts with Policy Q2 of the Lambeth Local Plan (LP) because the standard of privacy provided would be unacceptable. It would also be contrary to the Framework, which notes that development should, amongst other things, create places with a high standard of amenity for all users. These policies apply to the occupiers of non-residential and residential properties.

Character and appearance

9. The appeal property is an end terrace building that occupies a prominent corner position at the junction of Clapham High Street and Edgeley Road within the Clapham High Street Town Conservation Area (CA). The significance of the CA as a designated heritage asset derives from the historic buildings within it, many of which line both sides of Clapham High Street (CHS). From what I saw, CHS is a busy thoroughfare with a vibrant mix of uses along it. Although not listed, the evidence notes that the appeal property and No 52 are identified in the Council's Conservation Area Statement as positive contributors to the character and appearance of the CA. From my inspection of the approved plans for the redevelopment of the site, the completed building would similarly add to the character and qualities of the CA.
10. A black cast iron balustrade set back from the edge of the flat roof would enclose the new roof terrace situated above the ground floor front projection. The new balustrade would be a conspicuous feature of the host building, as the appellant's visual images show. It would also signal the presence of the proposed roof terrace, thus setting No 50 clearly apart from nearby buildings with which it would be visually 'read', that in the main do not have such a feature. When seen from various vantage points along CHS, the new balustrade would draw the eye because it would upset the clean lines of the completed building beyond. There is also the possibility that items left on the new roof terrace such as chairs, tables, plants and parasols would unduly

clutter the principal elevation of the main building, to the detriment of its character and appearance.

11. The Council's Supplementary Planning Document, *Building Alterations and Extensions* (SPD) states that the use of flat roofs at first floor level as terraces will normally be resisted given the poor visual impact of balustrading and screening. The appeal scheme would be one such example.
12. I saw that roof level terraces, balustrades and screening are a feature of some properties in the CA, some of which are visible from CHS including those to which the appellant has referred. None of examples cited or others that I observed were similar in nature, scale or prominence in their local street scene compared to the proposal and so few direct parallels can be drawn. In any event, each proposal should be assessed on its own merits, as I have done.
13. For all of these reasons, the proposal would introduce a discordant element and be obtrusive in the local street scene. It would diminish the contribution of No 50 to the CA, thus diminishing its significance as a designated heritage asset. That harm would be less than substantial. In those circumstances, the Framework states that the harm should be weighed against the public benefits.
14. From the submitted evidence, I am not convinced that the proposal would, in itself, result in the active use of the host building or that the shop front improvements would not progress in the absence of the appeal scheme. I do, however, acknowledge that a successful restaurant can be a vibrant component within an area and the use of the new roof terrace as an outdoor amenity area would add to that. Further animating the frontage of No 50 with customers enjoying the new roof terrace could also enhance the character and feel of CHS. An interested party notes that the proposal would be a great use of the space. By increasing footfall and activity, it may also provide a boost to other businesses that seek to trade there. By allowing the expansion of the restaurant through enlarging the floor area, the new roof terrace may also improve the attractiveness of the area as a place to visit and invest, with associated benefits to the local economy. For public safety reasons, those benefits would not occur without some form of enclosure around the edge of the roof. While these considerations amount to public benefits that weigh in support of the appellant's case, they do not outweigh the significant harm that I have identified.
15. On the second main issue, I conclude that the proposed development would significantly harm the character and appearance of the local area. It would fail to preserve or enhance the character or appearance of the CA. Accordingly, the proposal conflicts with LP Policies Q3, Q5, Q8, Q11 and Q22 and the Council's SPD. These policies and guidance broadly aim to ensure that new development respects its context, achieves the highest quality of design and conserves heritage assets including conservation areas.
16. There is also a conflict with the Framework regarding the protection of heritage assets such as conservation areas, and with the statutory duty. This duty requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA, which I have done.

Other matters

17. The Council and interested parties raise several additional objections to the proposal including security, potential noise and general disturbance, precedent, outlook, sense of enclosure and the disturbance that might arise if some users of the new roof terrace behave inconsiderately. These are all important matters and I have taken into account all of the evidence before me. However, given my findings in relation to the main issues, these are not matters on which my decision has turned.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR