The Planning Inspectorate

Appeal Decisions

Site visit made on 17 February 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal A: APP/N5660/C/20/3258820
1/1A, 3 and 3A Richborne Terrace, London SW8 1AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew de Giles, Hieracium LLP, against an enforcement notice issued by the Council of the London Borough of Lambeth.
- The enforcement notice was issued on 13 May 2020.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of three flat-roofed, rectangular, timber, London-stock brick and rendered access enclosures, one on each of the flat roofs of the three dwellinghouses ("the unauthorised roof access enclosures").
- The requirements of the notice are a) Remove the unauthorised roof access enclosures and make good the flat roofs; and b) Remove all associated waste and debris resulting from compliance with above steps, from the premises.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/N5660/W/20/3258807
1/1A, 3 and 3A Richborne Terrace, London SW8 1AS

- 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 Mr Matthew de Giles, Hieracium LLP, against the decision of the Council of the London Borough of Lambeth.
- The application Ref 20/01841/FUL, dated 4 June 2020, was refused by notice dated 12 August 2020.
- The development proposed is Retention and recladding of the stairwell enclosures at roof level (Retrospective).

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Preliminary Matter

1. For clarity I have described above the addresses of the three properties as they are referred to on the enforcement notice and the respective appeal forms.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the original building and the wider St Marks Conservation Area (CA).

Reasons

Character and Appearance

3. The character of Richborne Terrace is largely defined by the substantial mass and uniformity of dominant residential terraces, constructed in buff-coloured stock brick and set back from the highway, and which provide a strong horizontal emphasis to the built form. The presence of trees helps to soften the street scene.

4. The appeal site comprises three modern mews properties, two-storeys in height above ground level excluding roof terraces, which lie at the eastern end of Richborne Terrace, next to the junction with Palfrey Place. The height of the appeal building is shorter than, and therefore in contrast to, the aforementioned dominant terraces, but is consistent with the more squat form of adjacent properties on Palfrey Place. There is therefore some variation in the character of built development, when considering the surroundings of the site, beyond Richborne Terrace itself.

5. Each appeal property incorporates a terrace area, facilitated by the flat roofed construction of the building. The access enclosures comprise simple, flat roofed structures, identical to one another in proportion, rising from the respective roof terraces above the height of the perimeter balustrades and parapet walls. The purpose of the enclosures is to facilitate covered access to the respective roof terraces via an internal stairway. The structures are set back, adjoining the rear elevation of the building.

6. At present, two of the enclosures are finished in vertical timber boarding, with the central enclosure currently finished in grey render. The proposal is to replace these materials, so that each enclosure is finished in stock brick. Substantial container planting has been introduced around the perimeter of each of the roof terraces.

7. From my visit it was apparent that from street level each access enclosure is substantially screened by the aforementioned landscaping measures. However, even without this planting in place, because of their limited height and bulk and their recessed position, I consider that the enclosures would not be seen to interrupt or appear incongruous with the horizontal form of the adjacent dominant terraces or with the mansard roof design of the opposite terrace.

8. The form of the enclosures also appears consistent with, and subservient to, the flat-roofed design of the main building and the set back form of the upper storeys to some of the units which characterise the lower-rise architecture along Palfrey Place. Despite the relatively prominent corner location of the site, I do not consider the enclosures to be of a scale and design that would draw attention from the public domain to the presence of the roof terraces.

9. Although the enclosures would inevitably appear more prominent when viewed from above ground level, notably from rooms in the terrace opposite the site, I consider that their limited scale and recessed position is sufficient to ensure

that they would not appear dominant, overbearing or harmful to visual amenity. The enclosures would adjoin the rear side boundary of No 63 Palfrey Place. Although they could be seen from external parts of and internal rooms within that property, and from properties further to the south-west on Palfrey Place, their elevated position and limited scale would not serve to naturally draw the eye.

10. I concur with the view that the use of timber boarding and grey render would be at odds with the dominant finishing materials in the street. The use of stock facing brick to match that of the main building would, on the other hand, be a more suitable finishing material, in keeping with its surroundings.

11. I note that the principle of introducing privacy screening along the rear of the terraces was previously approved by the Council. I consider that, in addition to this, the appearance and limited height of the proposed glazed screening between roof terraces would be insufficient to cause visual harm. Although concerns have been raised with regard to the use of container planting on the roof terraces, I find this to be in keeping with the verdant character of the street scene and not a design feature that should be discouraged in this case. Furthermore I find that exercising control over the scale and species of plants there, insofar as this relates to visual amenity, would amount to excessive interference.

12. Whilst reference has been made to the use of a retractable glazed light, as a more acceptable alternative design solution, I have considered the development in this case on its individual merits.

13. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Drawing all of the above findings together, and subject to conditions regarding finishing materials, I conclude that the enclosures and screening, either individually or cumulatively, do not result in harm to the character and appearance of the host building or to this part of the CA. Rather they result in a neutral effect on the character and appearance of the CA as a whole, which accordingly would be preserved.

14. I also have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the development on the setting of the nearby Grade II listed 92 - 122 Clapham Road. It seems to me that the special interest of this building derives from its group value as a relatively uniform and imposing terrace in relation to Clapham Road. However because of the limited scale of the development in this case, its separation from the Clapham Road frontage and limited intervisibility between the sites, I consider there would be no harm caused to the heritage significance of this listed building.

15. Accordingly the development conforms with Policies Q5, Q7, Q8, Q9, Q11 and Q22 of the Lambeth Local Plan 2015 and with the National Planning Policy Framework insofar as they seek to secure high quality design which has regard to the local character and distinctiveness of the area, the architectural integrity of the original building, appropriate landscaping and preserving or enhancing heritage assets.

Other Matters

16. There have been further concerns raised by third parties. With regard to the potential for the terraces that are being accessed to facilitate the overlooking of adjacent and nearby properties I am satisfied that this issue can be overcome. Any impact on privacy between the terraces themselves and in relation to adjacent properties on Palfrey Place can be mitigated through the use of appropriate obscure glazed privacy screening, as proposed on the submitted drawings. Similarly appropriate planting measures may be used in order to prevent mutual overlooking of property in relation to buildings on the opposite side of Richborne Terrace and on Clapham Road.

17. Concerns have been expressed about the impact of the development on natural light entering the neighbouring property at No 63 Palfrey Place and other properties to the south-west of that one, also that it would appear overbearing in relation to these properties. However, because of the limited scale of the development and the location of the appeal site to the north-east of No 63, I am not persuaded that there would be any significant impact in terms of light loss. Furthermore, because of their elevated position and limited scale I do not consider that the enclosures would draw the eye, leading to an excessive sense of enclosure and harm to outlook.

18. There is no information provided to persuade me that the enclosures would result in any material harm to the level of natural lighting inside the respective host properties.

19. Reference is made to disturbance resulting from the use of the terrace areas. However the principle of the use of the terraces as an amenity feature for the respective properties is not before me for consideration.

20. I have considered the argument that the grant of planning permission would set a precedent for similar or enlarged developments. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

Conditions

21. I have had regard to the conditions suggested by the Council. A condition requiring agreement as to the appropriate external materials in the interests of the character and appearance of the area is needed.

22. I acknowledge that the plans submitted refer to details of the height and design of privacy screens on the terraces, with which I concur in principle. However I consider that it would be appropriate to incorporate these requirements as part of a condition requiring further details, which would allow for a comprehensive scheme to include planting measures at the front of the terraces.

23. The purpose of the conditions is to require the appellant to comply with a strict timetable for dealing with external materials and privacy measures which need to be addressed in order to make the development acceptable. The condition is drafted in the proposed form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition

precedent to secure the subsequent approval and implementation of the outstanding detailed matters.

24. The conditions therefore provide for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved either by the local planning authority or by the Secretary of State on appeal, and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the enclosures would have to be demolished.

Conclusion

Appeal A

25. For the reasons given above I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Appeal B

26. For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

Appeal A

27. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of three flat-roofed, rectangular, timber, London-stock brick and rendered access enclosures, one on each of the flat roofs of the three dwellinghouses ("the unauthorised roof access enclosures") on Land at 1/1A, 3 and 3A Richborne Terrace, London SW8 1AS referred to in the notice, subject to the condition below.

Appeal B

28. The appeal is allowed and planning permission is granted for Retention and recladding of the stairwell enclosures at roof level (Retrospective) at 1/1A, 3 and 3A Richborne Terrace, London SW8 1AS in accordance with the terms of the application, Ref 20/01841/FUL, dated 4 June 2020, and Drawings 437.105 Rev B; 437.106 Rev B and Location Plan, subject to the condition below.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

1) The access enclosures hereby permitted shall be demolished and all materials resulting from the demolition shall be removed from the premises within **nine months** of the date of failure to meet any one of the requirements set out in i) to iv) below:

   i) Within **one month** of the date of this decision a) details / samples of the materials to be used in the construction of the external surfaces of the access enclosures hereby permitted and b) details of a revised scheme of privacy screening to be permanently retained between the roof terraces and in relation to surrounding properties shall have been submitted for the written approval of the local planning authority and the details / samples scheme shall include a timetable for their implementation.

   ii) If within **nine months** of the date of this decision the local planning authority refuse to approve the details / samples / scheme or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.

   iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted details / samples / scheme shall have been approved by the Secretary of State.

   iv) The approved details / samples / scheme shall have been carried out and completed in accordance with the approved timetable.

   In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

END OF SCHEDULE OF CONDITIONS