



Appeal Decision

Site visit made on 31 January 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2023

Appeal Ref: APP/N5660/W/22/3307982
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 Mr Patrick Frawley of Clapham Tavern Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 22/02737/FUL, dated 26 July 2022, was refused by notice dated 15 September 2022.
 - The development is the temporary formation of a roof terrace at first floor level on the flat roof of the single storey front extension in association with the bar/restaurant use until 01 November 2022, and the permanent installation of an access staircase and a fully glazed pitched rooflight.
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Decision

1. The appeal is dismissed.

Procedural and preliminary matters

2. The roof terrace, access staircase and fully glazed pitched rooflight, as proposed, were all in place at the time of the site visit.
3. The time-period originally sought for the temporary formation of the roof terrace has expired. Nevertheless, I have proceeded on the basis that planning permission is still sought for the roof terrace on a temporary basis.
4. The site lies within the Clapham High Street Conservation Area (CA). I have therefore had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
5. The Council has referred to enforcement action recently taken in relation to the appeal property. For the avoidance of doubt, I have considered the planning merits of the development sought. My conclusions are for the purpose of this appeal only and do not prejudice any enforcement proceedings.

Main issues

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

Reasons

Background

7. The glazed rooflight and the access staircase are not cited in the Council's reasons for refusal. These elements of the appeal scheme are, in themselves, modest additions to the appeal property with no significant effect on the character and appearance of the host building or the local area or on the conditions of others. Therefore, I shall follow the Council and focus on the roof terrace and the screening and balustrades around its perimeter. These are in place above the ground floor projection at the front of No 50 in association with the use of the host building as a bar and restaurant.
8. A similar proposal was recently refused planning permission on application and at appeal. As the Inspector in that case, I am familiar with the development sought at that time. In the interim, the coronavirus pandemic and the associated public health restrictions have had a profound and lasting impact particularly in the hospitality sector. The appellant has explained that the roof terrace was introduced in response to changing consumer habits and the significant challenges facing the appellant's business resulting from the pandemic. Despite the lifting of restrictions, I acknowledge the hospitality market remains fragile with a recovery to pre-pandemic levels still some way off. It is this context, coupled with the temporary nature of the development, that differentiates it from the previous appeal scheme that was dismissed.

Character and appearance

9. The appeal property is a tall end-terrace building of traditional style that occupies a prominent corner position at the junction of Clapham High Street and Edgeley Road within the Clapham High Street District Centre and the CA. The significance of the CA as a designated heritage asset derives from the historic buildings within it and the vibrancy of Clapham High Street as a busy, commercial route. Although not listed, No 50 is identified in the Council's Conservation Area Statement as a positive contributor to the character and appearance of the CA. I share that opinion.
10. A transparent screen and balustrades are set back from the edge of the flat roof of No 50 and partly enclose the terrace, upon which customers can gather and sit. The materials, style and colour of the seating area complement each other and the colour of the planters, balustrades and fence are the same as the façade below. Nevertheless, the screens and balustrades are highly conspicuous features of the host building and are visible from the road even with planting partially screening and visually softening them. These features signal the presence of the roof terrace and clearly set No 50 apart from other nearby buildings that in the main do not have such a feature.
11. When seen from numerous public vantage points especially along Clapham High Street, the roof terrace, screens, and balustrades draw the eye because they distract from and undermine the traditional style and clean lines of the host building beyond. Furniture on the roof terrace including chairs, tables and parasols also unduly clutter the principal elevation of the main building, to the detriment of its character and appearance. That the roof terrace and its boundary treatment would be in place for a temporary period, which could be a short timeframe, would not reduce their harmful visual impact during that time.

12. In the local area and elsewhere in Lambeth, there are examples of roof level terraces and related screening that are evident from the road including those to which the appellant has referred and provided photographs and some details. In some instances, such as 68 Clapham High Street, the Council has explained that planning permission has not been granted. In others, the context differs to that of No 50 and few details have been provided to understand their background more fully. In any event, each development should be assessed on its own merits, as I have done.
13. For the reasons given, the roof terrace and the related screens and balustrades introduce a discordant element and are obtrusive in the local area. These features diminish the positive contribution of No 50 to the CA and so diminish its significance as a designated heritage asset. I attach considerable importance and weight to this harm in the planning balance of this appeal even given the temporary nature of the development sought.
14. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. As the effects of the development are localised, the harm to the CA would be less than substantial but nevertheless of considerable importance and weight. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the scheme whilst it is in place.
15. The appellant has advised that the development has created employment with 2.5 new full time equivalent jobs required to service the roof terrace. With about one quarter of revenue and reservations taken relating to the roof terrace, it plays an important role in the viability of the business. I also note that the revenue generated has contributed to the refurbishment works carried out at the appeal property that in turn has improved its appearance.
16. A successful bar and restaurant can be an important component to the vitality and vitality of the District Centre and the new roof terrace as an outdoor amenity area positively contributes to that. The development indirectly supports suppliers of the bar and restaurant and provides an opportunity for customers to eat or drink outside if that is preferable to them. That people can meet in this way facilitates social interaction and it supports the well-being of the local community.
17. By increasing footfall and activity, the roof terrace can also provide a boost to other nearby businesses that can benefit from extra custom that in turn adds to the vibrancy of the District Centre. In doing so, it will also contribute to the attractiveness of the area as a place to visit and invest. Paragraph 11.80 of the Lambeth Local Plan 2020-2035 (LP) recognises that leisure and hospitality play an important role in Clapham's economy and support many jobs and businesses. 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 identified harm.
18. I appreciate that the Council has found the temporary nature of developments acceptable and that the public benefits of a time-limited and reversible installation can in some instances outweigh harm to heritage assets. Specific details and photographs have been provided of such examples at the Grade 1 listed Royal Festival Hall and the Queen Elizabeth Hall at the South Bank

Centre, which I have carefully considered. While these cases are not put forward as precedents, the public benefits were particular to each of these developments with few direct parallels to be drawn with the scheme before me.

19. On the first main issue, I conclude that the roof terrace and its related screening and balustrades cause significant harm the character and appearance of the local area. These parts of the appeal scheme fail to preserve or enhance the character and appearance of the CA. As such, the development conflicts with LP Policies Q5, Q8, Q11 and Q22 and the Council's Supplementary Planning Document, Building Alterations & Extensions. These policies and guidance aim to ensure that development positively responds to the host building and its local context; achieves the highest quality of design and conserves heritage assets including conservation areas. There is also a conflict with the Framework regarding the protection of designated heritage assets.

The conditions of the occupiers of No 52

20. A timber slatted fence along one side of the roof terrace prevents overlooking from the seating areas on the roof terrace towards the front windows of the attached property, No 52, which is in use as offices. Even so, anyone of average or above height walking or stood on the roof terrace closest to the common boundary with No 52 would still have a reasonably close view into the first-floor windows of this attached property. The privacy of the occupiers of No 52 would be unduly compromised as a result.
21. In my experience, some overlooking is often a common characteristic of the relationship between properties that stand side by side in built up areas such as this. However, in this instance, some views possible from the roof terrace towards the front windows of No 52 would be at close range and highly intrusive. I appreciate that the Operations and Management Plan notes that the roof terrace will be used for seated customers only with no groups allowed to gather. However, to access and exit the roof terrace would require people to walk and possibly stand close to the boundary with No 50. That No 52 is not in residential use does not diminish the significance of the identified harm.
22. The overlooking problems could be resolved if the slatted boundary fence between Nos 50 and 52 were extended upwards and in length. However, the scale and height of the resultant boundary feature would feel oppressive when seen from the first-floor window of No 52 nearest to the appeal property.
23. On the second main issue, I conclude that the roof terrace unacceptably harms the conditions of the occupiers of No 52. That the terrace would be in place for a temporary period does not reduce its harmful effect over that time. Accordingly, it conflicts with LP Policies Q2 and ED8, which seek to ensure acceptable levels of privacy and to minimise any adverse effects on local amenity. It is also contrary to the policies of the Framework, which note that development should, amongst other things, create places with a high standard of amenity for all users.

Other matters

24. For the reasons given, the glazed roof light and access staircase are acceptable in planning terms. Taken individually and together, these elements of the appeal scheme preserve the character and appearance of the CA and do not conflict with the policies cited by the Council. However, from my inspection of

the plans, the roof light and staircase are not clearly severable, both physically and functionally, from the roof terrace, which is objectionable. Therefore, I have not issued a split decision that grants planning permission solely for them.

Conclusion

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

Gary Deane

INSPECTOR