



Appeal Decision

Site visit made on 27 January 2023

By A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 7 March 2023

Appeal Ref: APP/N5660/D/22/3306593

Avon Villa 2A Shakespeare Road London SE24 0LB

- 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 Driton Rexha against the decision of The London Borough of Lambeth.
 - The application Ref:22/02203/FUL dated 17 June 2022 was refused by notice dated 22 August 2022.
 - The development proposed is reducing and repositioning the summerhouse including replacement to side door and windows with glazed timber doors, increasing the height of the fence (2250mm), plus extending the boundary wall the installation of 2 front roof lights to the main dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although drawings refer to both 'railings' and 'fence' the basis of the submission indicates that the intention is to erect an opaque screening structure at the front boundary of the appeal site and I have determined this matter on that basis.

Main Issue

3. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area including the Poets Corner Conservation Area (Conservation Area), and
 - living conditions for occupiers of the host dwelling.

Reasons

Character and appearance

4. Avon Villa, 2A Shakespeare Road (No.2A), is a single storey, single aspect dwelling dating from the mid-twentieth century and located in what would have previously been part of the rear garden to 37 Dulwich Road (No.37) which lies adjacent to Shakespeare Road. The appeal site is located behind timber panel fencing at a height of less than 2.0m, in part sitting over a low boundary wall. Although the appellant suggests that the existing boundary treatment 'screens

the elevations of the outbuilding¹ the outbuilding proposed to be replaced is visible in the street scene to the extent that it exceeds the height of the boundary fence and this is a part of Shakespeare Road where pavement trees that appear elsewhere are absent. Having regard to the prevailing settlement pattern, the host dwelling is plainly at odds with the historic pattern of development in the Conservation Area², and to the extent that the outbuilding further cramps the limited space around the host dwelling, by its appearance in the street and by the materials employed, attention is drawn to that divergence.

5. There have been a number of previous applications and recent appeal decisions relating to similar proposals at the site which are an important consideration, given that both recent appeals were dismissed. The proposal here appealed intends to replace the existing outbuilding at a lower height (2.1m), and to increase the height of the frontage boundary treatment from that proposed in the most recent appeal decision, also to introduce more appropriate materials (to the outbuilding) together with changes to its position within the site. Although incremental, these further changes are material in that the proposal differs, in some important respects, from what has been determined before.
6. The Council indicate that the measures embodied in the proposal reduce the dominance of the outbuilding compared to previous submissions, but point to its visibility from other properties. That, however, is to attach too great weight to the impact of the outbuilding against the backdrop of the host dwelling which itself appears as an incongruous element in the CA and would do so even if the outbuilding were not there.
7. Broadly, it is possible that the effect of the measures embodied in the proposal in terms of increased screening and reduced footprint together with the use of more appropriate materials could be to wholly mitigate the harmful impact upon the character and appearance of the Conservation Area brought about by the existing outbuilding. However, notwithstanding that conclusion, the resulting boundary treatment and materials employed in its construction would be a potentially obtrusive element due to its height and prominence in the street scene, and this is a matter to which I now turn.
8. I note that the Conservation Area designation statement³ makes reference to the use of brick and to the harm from loss of boundary treatments. Whilst there is no evidence of high brick walls enclosing the appeal site, there is nevertheless reason to attach weight to the sensitive and appropriate use of materials in what would be a prominent part of the street, there being no softening landscape or pavement trees along the frontage of the appeal site. The appellant has proposed to extend the existing low wall and add a timber fence above to a height of 2.25m above pavement. Such configurations are more usually found in suburban environments and would appear incongruous in a location where timber fencing appears infrequently and frontage boundaries, including the original enclosures at the rear of No.37, are typically of brick construction.

¹ 4.14 of the grounds of appeal

² In which regard it would seem the designation post-dates the (original) construction of the dwelling.

³ designation of Proposed Poet's Corner Conservation Area (CA No. 52) report to ENVIRONMENT COMMITTEE (12th October 1998) En/98-99

9. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Section 72 duty) is of considerable importance. Consequently, I am led to conclude that although the proposal would address the concerns raised as to the impact of the outbuilding on the character and appearance of the area and of the CA in terms of height and materials employed in the construction of the outbuilding, the form and appearance of the proposed front boundary fence would, by virtue of its height and the prominence of inappropriate timber fencing cause harm to the character and appearance of the Conservation Area. The harm identified would amount to "less than substantial harm" which the Framework advises must be weighed against the scheme's public benefits and no public benefits are suggested to outweigh the harm. The proposal would therefore fail to comply with the Framework and would conflict with Policies Q5 and Q22 (A) of the Lambeth Local Plan 2021 (LLP) which seek to sustain Lambeth's distinctive townscape character and preserve or enhance the character and appearance of Conservation Areas.

Living conditions

10. Policy Q2 of the LLP seeks to protect the amenity of occupiers and other users; and at (iii) refers to a need for 'adequate' outlook; and at (iv) to the effect of development upon access to daylight and sunlight. In comparison with what is currently found on site at the appeal site, the proposed outbuilding would be both smaller, such that the enclosing effect would be significantly reduced, and, by its location, less obstructive of daylight to the habitable rooms. In addition, access to daylight for the two bedrooms would be supplemented with rooflights. As Inspector Davis noted ⁴ in relation to a similar proposal at the site, the rooflights would ensure these rooms have adequate daylight but that the proposed building would 'unacceptably dominate' outlook from Bedroom 1.
11. Although the relocated outbuilding would intrude to a degree upon the somewhat limited outdoor space available to the occupiers of No.2A, I note that outlook from the habitable rooms which are most likely used in daytime would not be affected and whilst open outlook from every part of a dwelling would be desirable, policy Q2 relates to the 'adequacy' of outlook. In practical terms, perceptions of enclosure and openness are fluid according to circumstance and opportunity, such that providing other (or main) living spaces are not constrained in the same way, use of rooms for which the primary use is sleeping are generally tolerant of limited outlook particularly where those rooms have good access to daylight from elsewhere, as is the case here. For that reason, whilst the outbuilding would dominate outlook from the window in bedroom 1, taking the dwelling as a whole, I do not consider that the proposed development would lead to a less than adequate outlook or an unacceptable impact on living conditions for users of the dwelling. On that basis there would be no conflict with Policy Q2 of the LLP.

Conclusion

12. Although I have found no conflict with the development plan in relation to the second main issue, and that the impact of the proposed outbuilding upon the

⁴ APP/N5660/D/22/3293624 dated 24 May 2022

character and appearance of the area would not be harmful if appropriately screened from the street, I find that the nature of the screening proposed, would be obtrusive and harmful to the character and appearance of the CA. There would in consequence be a conflict with the development plan which is not outweighed by any other consideration. For these same reasons I further conclude that, having regard to the Section 72 duty that the proposal would fail to preserve or enhance the character and appearance of the CA and in consequence, taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR