



Appeal Decision

Site visit made on 10 October 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH NOVEMBER 2023

Appeal Ref: APP/N5660/C/23/3323484

Top (Second) Floor Flat, 47-48 Lower Marsh, London SE1 7RG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Bea Rangle against an enforcement notice issued by the Council of the London Borough of Lambeth.
 - The notice was issued on 24 April 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a timber framed canopy covering the existing roof terrace at the rear of the second floor ('the unauthorised timber canopy').
 - The requirements of the notice are: a) Remove the unauthorised timber canopy and reinstate the affected parts of the second floor as existed prior to the breach of planning control; and b) Remove all associated waste and debris resulting from compliance with the above step, from the premises.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. The Council's representative was delayed during their journey to attend the accompanied site visit. I was unable to delay my site visit long enough to wait for the Council's representative to arrive, due to other appointments. I therefore inspected the area surrounding the appeal site unaccompanied, before entering the appeal site without a representative from the Council present. During my site visit the appellant and their agent provided me with access to the appeal site only, and we did not discuss any issues relevant to the appeal.

Main Issue

3. The main issue is the effect of the timber framed canopy on the character and appearance of the area, with particular regard to the Lower Marsh Conservation Area (CA).

Reasons

4. The appeal site is a 3-storey mid-terrace building with a commercial use on the ground floor and flats across the upper floors. A flat roofed, timber framed

canopy has been erected over a terrace area serving the second floor flat, on the rear elevation.

5. The appeal site is within the CA, which is largely characterised by 3 to 4 storey terraced buildings with commercial uses on the ground floor and residential uses at upper floors. Buildings in the CA mainly have brick, rendered, or painted finishes above ground floor level, and appear to be of 19th and 20th century construction. The northeast elevation of the property next to the appeal site forms the end of the terrace and displays a large colourful mural which refers to Lower Marsh Market and a Cuban restaurant/bar on the ground floor. Temporary foldable canopies line much of Lower Marsh on market days, as I saw during my site visit, which contribute to the relaxed character of the area. The significance of the CA therefore appears to rely on the high quality, but informal appearance of this mix of historic buildings and uses.
6. The mural is typical of the informal character of this part of the CA. A large number of foldable canopies with advertising referring to the Cuban restaurant/bar were sited along the northeast elevation of the end of the terrace during my site visit. Similar canopies were also at first floor level, appearing to cover a terrace enclosed by bamboo screening. Similar bamboo screening encloses the terrace at the appeal site.
7. The timber framed canopy has a makeshift appearance on account of its simple construction, which contrasts with the brickwork and tiled finishes of the rest of the building. It is seen in the context of the various foldable canopies of different designs along Lower Marsh and along the northeast elevation of the neighbouring property, the bamboo screening, and the mural. All of those canopies have a temporary appearance, indicating that they are not permanent features of the built environment. It is unclear whether the bamboo screening is a permanent feature of the appeal site and the adjacent building, but even that relates sympathetically to the Cuban restaurant/bar and the exotic appearance of the mural, which is a notable feature of the CA.
8. Views of the exposed timber beams on the underside of the canopy roof are visible from street level to the northeast, along Baylis Road and its junction with Lower Marsh and Spur Road. More restricted views of the works can be seen from the southeast along Baylis Road, from outside the CA. In all available views, the timber framed canopy is seen as an uncharacteristic, poor quality addition to the building and the CA. It is not typical of the informal and relaxed character of the CA and it does not reflect the range of materials and finishes on the northeast elevation of the adjacent property.
9. Timber planters of different shapes and finishes are present along Baylis Road to the southeast of the appeal site, outside of the CA. Views of the rear elevation of the appeal site from that direction include air conditioning units and a range of ventilation ducting within the CA. Even when seen alongside those timber planters, air conditioning units, and ventilation ducting, the timber framed canopy does not integrate comfortably with its surroundings. Those other features of the area do not soften the impact of the unauthorised development on the character and appearance of the area to any great extent.
10. The timber framed canopy therefore causes only a modest level of harm to the character and appearance of the area, but it fails to preserve or enhance the character or appearance of the CA. It is contrary to Policies Q2 and Q22 of the Lambeth Local Plan (2015). These support development which preserves or

enhances the character or appearance of conservation areas, and development which does not unacceptably compromise visual amenity from the public realm, amongst other things.

11. The timber framed canopy provides shelter to the residential terrace from the sun and rain and allows it to be used throughout the year. This is a small benefit private to occupants of the flat, which does not outweigh the harm I have identified above.

Conclusion

12. For the reasons given above, the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Douglas

INSPECTOR