



Appeal Decision

Site visit made on 20 February 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/N5660/W/23/3328798

38 Fentiman Road, Lambeth, London SW8 1LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Verstage on behalf of Amazon Properties Ltd against the decision of London Borough of Lambeth.
 - The application Ref is 23/01442/FUL.
 - The development proposed is described as extension of existing two storey outrigger, construction of new roof terrace to first floor, alterations to fenestration and reconstruction of external balcony and staircase.
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Decision

1. The appeal is allowed and planning permission is granted for extension of existing two storey outrigger, construction of new roof terrace to first floor, alterations to fenestration and reconstruction of external balcony and staircase at 38 Fentiman Road, Lambeth, London SW8 1LF in accordance with the terms of the application, Ref 23/01442/FUL, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. At the time of my visit I was unable to view the appeal site from third party land. However, I am satisfied that I was able to view the relationship of the appeal site to neighbouring properties from the rear garden of the appeal site.
3. Since the start of this appeal, the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

4. The main issues are:
 - i) the effect of the proposed roof terrace on the character and appearance of the area, with particular regard to whether it would preserve the character and appearance of St Marks Conservation Area (CA); and
 - ii) the effect on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The appeal site is an attractive three storey, basemented, mid-terraced townhouse located in a row of similar properties within the CA. I have not been provided with a CA appraisal, however, at my visit I observed the area to be predominantly residential, comprising long-terraces of nineteenth century townhouses that are uniform in appearance. The properties are notable for their common-scale and materiality. The regular rhythm of building lines and fenestration detailing contributes to the architectural and historical significance of the CA as a whole.
6. There is a statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas under the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
7. The proposed extension would not be visible from the front elevation. The rear of the properties are accessed via a narrow path set behind the tall rear boundary treatments. The rear elevation of the terrace is much simpler in its architectural detailing, however, properties retain a similar rhythm of fenestration and contribute to the character and appearance of the area, albeit to a lesser extent than the building frontage.
8. Policy Q11 of the Lambeth Local Plan 2020-2035 (Local Plan) states that roof terraces will normally be resisted on locally distinct building types where they are not characteristic of the host building/group. I observed many properties along the rear of the terrace to have been remodelled, including outrigger extensions of various heights and designs, including roof terraces.
9. Whilst the proposed roof terrace would be visible from the gardens of the terraced block this in itself does not make it unacceptable. The roof terrace would be viewed in the context of other extensions and roof terraces. Given the limited width of the proposed roof terrace the existing rear elevation of the property would remain legible and would not erode the appearance of the original dwelling. As the roof terrace would sit below the existing roof line, and is a visually lightweight addition of modest proportions, the proposed extension would sit comfortably within the immediate environment. In the context of the wide variety of outriggers and extensions to the rear of properties it would not appear bulky or out of place. Accordingly, a roof terrace would not be uncharacteristic of the terrace as a whole.
10. The Council is concerned about the materials which would be used to screen the roof terrace as it would be fitted with obscure glazing. Due to the nature of the material, it would have some transparency which would reduce its solidity and mitigate its visual impact. Furthermore, the juxtaposition of the original dwelling and the contemporary addition proposed would not result in an unduly dominant or an incongruous visual relationship which would harm the host property or the group value of the terraces as a whole.
11. Due to the presence of boundary treatments and landscaping, wider views of the proposed extension would be limited. Accordingly, the proposed extension would not be a significant feature in terms of visual prominence within the CA.

12. For the reasons stated above, I conclude that the proposed development would not have any adverse effect on the character and appearance of the appeal property or the surrounding area and would preserve the character and appearance of the CA. Consequently, I find no conflict with Policies Q5, Q8, Q11 and Q22 of the Lambeth LP. Collectively these policies seek to respond positively to historic character and local distinctiveness and to preserve or enhance the character or appearance of the conservation areas by respecting and reinforcing the established, positive characteristics of the area. Similarly, there is no conflict with the Framework which seeks to ensure developments are sympathetic to local character and history.

Living Conditions

13. The Council is concerned that the size of the roof terrace would lead to usage which in turn could lead to unacceptable levels of noise and disturbance. Whilst I appreciate that noise may travel further at an elevated position, I have no reason to consider that the roof terrace would be used for any purpose other than as a residential outdoor amenity area and that the level of use would be restricted given its limited size.
14. The appeal property is located within an urban block where properties have small rear gardens and a degree of overlooking already exists from the presence of openings, including Juliet balconies. While I accept a roof terrace will offer further opportunities for overlooking, it is not unusual, when living in areas of flat developments, to have levels of mutual overlooking which may not be expected elsewhere. However, when considering the height of the obscure glazed balustrade, when stood or sat down within the roof terrace, there would be limited opportunities for overlooking neighbouring gardens. When stood on the proposed roof terrace the acute angle of view means that opportunities for looking into the windows of existing habitable room windows on the rear elevation of the terrace would be limited. Accordingly, the proposal would not result in an adverse loss of privacy upon neighbouring residents.
15. The submitted plans demonstrate that the relationship between the proposed extension and the nearest neighbouring windows at Nos 36 and 40 would not be adversely affected by the two-storey rear extension. Having regard to the closest rear window of No 36 adjacent to the proposed rear extension, the glazed balustrade would be limited in its depth. Furthermore, owing to its glazed finish this would allow the passage of light and would not result in a harmful sense of enclosure. Accordingly, satisfactory daylight and sunlight would be maintained such that the living conditions of the occupiers of the neighbouring properties would not be materially harmed.
16. For the above reasons, I conclude that the proposed development would not harm the living conditions of neighbouring occupiers. Accordingly, I find no conflict with Policy Q2 of the Local Plan. Amongst other things this policy seeks to ensure that acceptable standards of privacy are provided. Nor do I find conflict with the Framework that seeks a good standard of amenity for all existing occupants of land and buildings.

Other Matters

17. The Council raises no concerns regarding the two-storey extension, replacement fenestration or the replacement of the existing balcony and stairs.

Based on the evidence before me and my observations I have no reason to conclude differently.

18. Third parties have raised concerns that the proposal would impede air ventilation to the adjacent property. The Council did not include such matters in their reason for refusal and there is no substantive evidence before me to reach a different view.
19. The accuracy of the plans has been questioned by a third party. However, based on my observations I see no reason to doubt their accuracy.
20. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.
21. Whilst my attention has been drawn to a recent allowed appeal decision¹ I have determined this appeal on its own merits. In respect of concerns regarding the proliferation of roof terraces on the terraced group my decision has been made based on the evidence before me and the individual merits of the case, set out in the reasoning above. This does not have any bearing on future applications that may be heard by the Council.

Conditions

22. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity.
23. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity. A materials of construction condition is reasonable and necessary in the interests of preserving the character and appearance of the CA. In order to preserve the amenity of occupants of neighbouring properties, I consider that it is necessary for the privacy screening to be installed prior to use of the roof terrace in accordance with the specified height.

Conclusion

24. For the reasons given above, and having regard to all other matters, I conclude that the development would comply with the development plan as a whole. The appeal is therefore allowed.

R Gee

INSPECTOR

¹ APP/N5660/W/17/3191925 Dated 29 June 2018

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: FIRE STRATEGY; EX-01; EX-02; EX-03; EX-04; EX-05; EX-06; EX-07; Flood Risk Assessment, Design & Access Statement; PP-01; PP-02; PP-03; PP-04; PP-05; PP-06; PP-07; PP-08 and PP-09.
3. All new external work and finishes and work of making good shall match the original work in respect of the materials, colour, texture, profile and finished appearance, except where indicated otherwise on the drawings hereby approved or unless otherwise required by condition.
4. Prior to completion of the development hereby permitted, the proposed screening to the terrace should be installed and retained for the life of the development. The screens should be 1.7m in height above finished floor level and fitted with obscure glass or obscure glazing film over the entirety of the glass, to a minimum level of obscurity equivalent to Pilkington Texture Glass Level 3.

*****End of Schedule*****