



Appeal Decision

Site visit made on 23 April 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/N5660/W/23/3333297

172-176 Streatham High Road, London SW16 1BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Essa (Helmsley Properties Ltd) against the decision of London Borough of Lambeth.
 - The application Ref is 22/04251/FUL.
 - The development proposed is erection of single storey (second floor) extension to provide 3 residential units (Use Class C3), together with the provision of cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the above banner heading has been taken from the decision notice and appeal form as this more accurately describes the proposed development.
3. The Councils' reason for refusal 3 as set out on the decision notice refers to the absence of BRE compliant daylight and sunlight to surrounding properties. However, the Councils' statement of case explains that this reason has been amended to exclude the lack of a BRE assessment. On this basis, I do not consider it necessary for me to consider that matter further.
4. The Councils' reason for refusal 2 as set out on the decision notice refers to guidance contained in the Lambeth Building Alterations and Extensions SPD (2015). The Councils' statement of case explains that this has been superseded by the Lambeth Design Guide adopted August 2023. This document has been provided and I have determined the appeal accordingly.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to privacy and levels of natural light;
 - The effect of the proposed development on the character and appearance of the existing property, terrace and surrounding area, including whether it would preserve or enhance the character or appearance of the Streatham High Road/Streatham Hill Conservation Area (CA);

- The effect of the proposed development on the living conditions of existing surrounding properties with particular regard to privacy and outlook; and
- Whether the proposed development would provide safe access for pedestrians, occupiers of the new flats or those using the refuse storage and cycle parking in the shared rear access alley.

Reasons

Living conditions – future occupiers

6. The appeal site relates to 172 – 176 Streatham High Road and includes the land and building to the rear of the terrace. The building to the rear is formed of a structure which varies in height with the highest part being the equivalent of two storey and is understood to be in use as commercial storage.
7. The proposed development seeks planning permission for the erection of single storey extension to provide 3 residential units (Use Class C3), together with the provision of cycle and refuse storage. The extension would take place on top of the flat roof of the existing building effectively forming a 3rd storey.
8. The location of the proposed development would be close to the rear elevation of the Streatham High Road buildings which are much taller in height comprising flatted properties. Given the relationship that exists including proximity and height of the adjacent buildings, it is likely that the building would have an overshadowing impact on the rear bedroom windows of the proposed flats. It would therefore result in poor living conditions for future occupiers particularly given the lack of other openings offering levels of light more generally which is mostly reliant on that serving the winter gardens located at the opposite end of the property. The suggestion of rooflights would not sufficiently mitigate against this as these would also likely be overshadowed by the taller building and matters relating to privacy would need to be considered.
9. The bedroom window serving the proposed flats would look out onto the access route serving the development. The access route would be very narrow with the main point of access being to the north via steps. This would mean that those accessing flats 2 and 3 would need to pass within very close quarters of the bedroom window serving flat 1. Similarly, flat 3 would need to walk in front of flat 2 which would result in the loss of privacy for future occupiers of these flats. I note the appellants' claims that this is a transient space, and such an arrangement is not uncommon for such properties. Even so, and whilst an element of overlooking can be expected within this urban context, the location of the narrow access route in relation to windows means that clear and open views into the bedrooms can be had resulting in poor living conditions.
10. I am aware of the Councils' concern in relation to the proximity of the existing decked amenity space and rear windows of the Streatham High Road buildings in relation to the proposed development having regard to matters of privacy. There would however be a level of separation between the different areas with the presence of various structures in-between including the existing storage areas to the far end of the existing decked amenity space and the proposed walkway which would help filter direct lines of sight and intrusive observations. The overall positioning/angle and small size of the proposed bedroom windows

would also minimise any potential impact in terms of constant or direct overlooking. The nature/function of the proposed walkway serving as access for the dwellings would also mean that future occupiers would not be unduly harmed by loss of privacy from the occupiers of the Streatham High Road buildings to a harmful degree within this particular urban context. This would not however overcome the harm of overlooking from the access route serving the proposed development.

11. For the above reasons, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers with particular regard to privacy and levels of natural light. It would therefore be contrary to Policy Q2 of the Lambeth Local Plan 2020-2035, 2021 (LLP) which supports development if amongst other matters, acceptable standards of privacy are provided and would not have an unacceptable impact on levels of daylight and sunlight.

Character and appearance

12. The appeal site is not visible from Streatham High Road itself given its positioning to the rear of the terrace although it would still be clearly visible from a number of other vantage points including the rear of the properties along Streatham High Road, from those utilising the rear public access route from Becmead Avenue and from the properties and rear garden areas along Becmead Avenue.
13. The site lies in the CA and I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Moreover, the National Planning Policy Framework (the Framework) advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial should be weighed against the public benefits of the proposal.
14. The CA is noted for its impressive length of commercial and purpose built residential apartment blocks dating from the late Victorian, Edwardian and Inter-war eras. The rear yard areas of most of the buildings in the terrace along Streatham High Road are entirely infilled at single storey. There are variations in the height and depths of the rear elevations along this stretch including various external staircases which provide access to the rear of the properties. There are some examples of a second storey of these elements, but these are not recently built and not overly dominant. The appellant refers to 180-182 Streatham High Road located to the south which is a residential site above a two-storey element. This is however an anomaly within the rear of the terrace, and I note the Councils' comments regarding its lack of planning history and its overall contribution to the CA. Based on my observations on site, 3 storey structures are certainly not the character of the rear infilled area of the terrace. There is a gym located to the northwest of the site which is a tall commercial building but its location away from the terrace and overall commercial nature means that it is indeed read differently to that of the appeal site. It also falls outside of the CA and is therefore not comparable.
15. The proposed development would be located above the two-storey element to the rear of the Streatham High Road buildings and would sit almost flush with the rear public access route. This, together with the overall height, width and depth would lead to the bulk of built form being considerably larger than at

present and to that of its neighbours which would be particularly apparent from a number of vantage points including those utilising the rear public access route from Becmead Avenue.

16. The combination of the increased size, position at third floor level along with the dual pitch roofs which are not characteristic to the rear of these infilled areas would dominate the existing building and would appear as an overly prominent and contrived addition. This is still the case even considering the use of materials. The development would not therefore be visually subordinate and would be inconsistent in comparison to adjacent built form to the detriment of the existing property, terrace, and surrounding area.
17. The proposed development also proposes winter garden areas for each property with sliding folding windows which are an alien feature to this rear elevation. This would further exacerbate the prominence of the proposed development. I appreciate the positioning of the development to the rear of the terrace although this does not mean that it would not be harmful and would not alter my findings in terms of its immediate surrounding context which falls within the CA where development is more sensitive.
18. For the above reasons, I conclude that the proposed development would unacceptably harm the character and appearance of the existing property, terrace, and surrounding area and thus would fail to preserve the character or appearance of the CA causing less than substantial harm to its significance as a designated heritage asset. Paragraph 208 of the Framework explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The benefits associated with the scheme include the provision of residential development which would provide some economic and social benefit including introduction of new homes to the borough's housing stock. However, the extent to which these would be beneficial would be limited given the modest scale of the development. Accordingly, I find that there are insufficient public benefits to offset the identified harm to the CA to which I have attached great weight given the CA's conservation advised by the Framework.
19. The proposed development would therefore be contrary to Policies Q2, Q5, Q11 and Q22 of the LLP which together, amongst other matters, requires proposals to respect and reinforce the established, positive characteristics of the area. For the same reasons, the proposed development would be contrary to the guidance contained in the Lambeth Design Guide, 2023.

Living conditions – existing occupiers

20. The proposed development would introduce a further storey to the existing flat roof element at third floor level. This would provide 3 residential dwellings with a winter garden with sliding folding windows facing onto the rear public access route. To the west of the access route are the rear garden areas serving the properties located along Becmead Avenue, separated by a boundary wall. Due to the narrow width of the access route, this means that the appeal site is located within close proximity of the garden areas/boundary serving these properties.

21. Given the close relationship and siting of the proposed development at third floor level, it would allow for direct views from the winter garden areas which include large areas of glazing into the gardens of the properties situated on Becmead Avenue which would result in an undue loss of privacy for the existing occupiers of these properties. I accept that the garden areas along Becmead Avenue are already overlooked by their neighbours along that row although this is at an angle which does not significantly impact privacy levels and is not an uncommon relationship that exists between properties. Whilst a level of overlooking can be expected in urban areas, the overall close relationship and height at third floor level would allow for direct views of the garden areas which would be harmful. I am aware of the appellants' claims regarding winter gardens introducing less overlooking than open balconies although I am determining the scheme before me opposed to other alternatives and thus this would not alter my findings as set out.
22. Comments made by the Council in relation to the feeling of enclosure for occupiers of Becmead Avenue is of less concern to me given the overall good size of the garden areas serving these properties which are also separated by the access route. Whilst a close relationship would exist as set out, the size of the garden areas and intervening access route would allow for a degree of space between both properties which would sufficiently minimise the feeling of enclosure. This would not however overcome the harm of overlooking.
23. Turning to the properties along Streatham High Road, these properties have several windows facing out onto the east elevation of the appeal site and are separated by an area of decking which is used as an access route to the properties and amenity space. Beyond this area is a flat roof element where no improvements appear to be proposed.
24. As set out above, a level of separation would exist between the existing rear elevation and amenity area of the Streatham High Road buildings and the proposed development with the presence of various structures in-between which would help filter direct lines of sight and intrusive observations. The overall positioning/angle and small size of the proposed bedroom windows would also minimise any potential constant or direct overlooking. The nature/function of the proposed walkway serving as access for the dwellings would also mean that existing occupiers would not be unduly harmed by loss of privacy from the occupiers of the proposed development to a harmful degree within this particular urban context. I have also considered the appearance of the flat roof element between the decking area serving the properties along Streatham High Road and the proposed walkway, although this would not alter my findings when factoring in all of the above. In terms of outlook, and whilst the proposed development would be clearly visible from the properties along Streatham High Road, the relationship/distance between the two and the overall size and scale of the proposed development, means that it would not unacceptably harm outlook for these properties.
25. For the above reasons, I conclude that although the proposed development would not unacceptably harm the living conditions of existing surrounding properties with particular regard to outlook and would not result in undue harm to the privacy of the existing occupiers of the properties along Streatham High Road, it would unacceptably harm the living conditions of existing properties situated on Becmead Avenue with particular regard to privacy. It would

therefore be contrary to Policy Q2 of the LLP which requires acceptable standards of privacy.

Access

26. The only access to the proposed units including to the cycle parking area would be to the rear, via the public access route from Becmead Avenue. This access is narrow, further comprised by bin storage and enclosed by walling with a lack of lighting. The proposed height at third floor level would further add to the enclosed nature of this already constrained access raising issues of safety for pedestrians utilising this access for the existing and proposed properties. Further, the access to the upper floor flats would be via external steps from street level which are already very narrow and the additional height at third floor level would make this area very enclosed which also raises issues of safety for pedestrians.
27. Given the constraints of the access, I am not convinced that the harm identified could be adequately overcome by means of a planning condition in the particular circumstances of this appeal.
28. For the above reasons, I conclude that the proposed development would not provide safe access for pedestrians, occupiers of the new flats or those using the refuse storage and cycle parking in the shared rear access alley. It would therefore be contrary to Policy Q3 of the LLP and Policy D11 of the London Plan, 2021 which together, amongst other matters, seeks to ensure and maintain a safe and secure environment.

Other Matters

29. The property is not listed nor locally listed although it is still located in the CA and thus must be assessed accordingly. There may not be any known sources of contamination in the immediate area, and I note claims relating to transport/highways, landscape, fire safety, flooding, noise, and ecology matters. I am also aware of the sustainable location of the site as well as changes made to the scheme. Such matters would not however alter my findings in relation to the above main issues nor would the appellants' commitment of entering into a S106 legal agreement as this would not overcome the harm identified.

Conclusion

30. The proposed development would conflict with the development plan when considered as a whole. There are no material considerations, either individually or in combination including the provisions of the Framework, that would outweigh the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR