



Appeal Decision

Site visit made on 11 March 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/N5660/W/24/3348035

67 Josephine Avenue, Lambeth, London SW2 2JZ

- 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 Chet Parker against the decision of the Council of the London Borough of Lambeth.
 - The application Ref is 24/00589/FUL.
 - The development proposed is roof extension and internal modifications on the first-floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.

Main Issues

3. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Rush Common Brixton Hill Conservation Area;
 - the effect of the proposal on the significance of 95 Brixton Hill as a Grade II listed building, through development in its setting; and;
 - the effect of the proposed development on the living conditions of the occupants of 91 and 93 Brixton Hill in respect of outlook, privacy, noise and disturbance and daylight/sunlight.

Reasons

4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In addition, Section 66(1) of the LBCA requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its

setting or any features of special architectural or historic interest which it possesses.

Conservation Area

5. The appeal site is located within the Rush Common Brixton Hill Conservation Area (CA), a linear arterial road running alongside a long green corridor; the remnants of the historic Rush Common, which survives within spacious front gardens and public open spaces. It comprises a two-storey building, mostly flat roofed, attached to a late Victorian villa (No 61-63) which is built in a similar style with both properties having two-storey canted bay windows.
6. The significance of the CA insofar as relevant to this appeal, is derived from the strong cohesive identity of Victorian development, including the Victorian buildings within it and the historic terraced housing and shopping parades along Brixton Hill. Whilst there are examples of different types of buildings in the CA, including ones with flat roofs, there is a prevailing character of Victorian properties that tend to have mansard, hipped and dual pitched roofs. Examples of rear dormers in the locality are small and subservient to the roof space they serve. The appeal site being built in a similar style to the attached villa is in keeping with the prevailing Victorian character and appearance of the CA.
7. Despite being set back from the front elevation, the proposed roof terrace and extension would dominate the roof of the property and be visible from Josephine Avenue. Although located amongst taller buildings, the significant bulk and mass arising from the proposals boxy form would fail to appear subservient to the modest appeal property and would extend significantly above the main ridge of the dwelling. This would contribute to the prominence of the proposed development and its discordant appearance.
8. Whilst the proposal would be viewed as a contemporary addition, its design and scale would fail to preserve or enhance the character and appearance of the CA as it would neither respect nor reinforce the form of the prevailing roofscapes within the CA. Despite the existing roof on which the proposed flat roof extension would be erected being flat, it is disguised by the raised parapet wall at the top of the façade and is not viewed as a flat roof, unlike the proposal which would have an incongruous appearance.
9. Whilst there are examples of other roof terraces with lightweight balustrades (such as 59 Josephine Avenue), these are on modern flats which have a very different form and appearance compared to the appeal site. The addition of a roof terrace and large roof extension at the appeal property would appear at odds with the traditional scale and form of the building and adjoining villa and unacceptably increase the visual prominence of the appeal property which currently appears subservient to the villa.
10. Reference is made to the properties opposite the site, that face Brixton Hill, which have mansard roofs and flat roofs on their outriggers. There is no evidence before me that the flat roofs of these outriggers are used as terraces. In addition, mansard roofs are typical of the CA and are a uniform feature of this terrace, as such these examples are not comparable to the appeal scheme.
11. For the reasons above, the proposed development would fail to preserve or enhance the character or appearance of the CA. It would therefore be contrary to

policies Q5, Q8, Q11 and Q22 of the Lambeth Local Plan 2021 (LLP). These policies amongst other things require proposals to preserve or enhance positive characteristics in the CA, extensions to be subordinate to the host building, visually attractive and respond positively to built form including roofscapes. It would also conflict with the duty under 72(1) of the LBCA.

The effect of the proposal on the significance of 95 Brixton Hill

12. The appeal site abuts the rear of 95 Brixton Hill, a Grade II listed building. No 95 dates from the late 18th Century and is identified as one of the oldest properties in the CA. Its significance is derived from its age in addition to its architectural features. The building has been subsumed by more recent Victorian development and unsympathetic flat roofed shop units, resulting in a piecemeal, cheek-by-jowl form of development.
13. Whilst No 95 cannot be readily appreciated from public vantage points, the appeal site has a physical and proximate relationship with the listed building and falls within its immediate setting. Given the scale of the proposal and it being so close to No 95, it would dominate the immediate setting of the listed building and consequently fail to preserve its setting.
14. For the reasons above, the proposed development would unacceptably affect the significance of 95 Brixton Hill as a Grade II listed building, through development in its setting. It would therefore be contrary to Policy Q20 of the LLP, insofar as it requires proposals not to harm the setting of listed buildings. It would also conflict with the duty under 66 (1) of the LBCA.

Outlook, privacy, noise /disturbance and daylight/sunlight

15. The flank wall of the rear section of the appeal site adjoins 91 and 93 Brixton Hill. Its exposed flank wall faces the rear elevation of these properties with the courtyard serving 65-67 Josephine Avenue providing a gap between them. The rear windows at first and second floor level on 91 and 93 Brixton Hill are large and serve habitable rooms. Due to the flat roof of the appeal property, these windows currently benefit from an open outlook.
16. The proposed roof extension would directly face the rear windows at first and second floor on 91 and 93 Brixton Hill. As a result, the outlook from the rear windows of these properties would be negatively affected because the increased height and proximity of the roof extension to the windows, would result in a sense of enclosure to the occupants of 91 and 93 Brixton Hill.
17. The front section of the roof of the appeal site would be used as a roof terrace and would allow those on it to look directly into the second-floor rear windows of 91 and 93 Brixton Hill. These are large windows and interested parties have confirmed that they serve habitable rooms. Given that the separation distance between the edge of the terrace and rear windows at the properties on Brixton Hill would be approximately 5m, the proposal would negatively affect the privacy of the occupants of 91 and 93 Brixton Hill.
18. Whilst the appellant has suggested that the western elevation of the terrace could be screened to protect privacy, an effective screen would negatively affect the outlook from the rear windows at 91 and 93 Brixton Hill. As a result, the negative impact on privacy identified, could not be overcome by condition.

19. It is alleged that the proposed use of the terrace would result in noise and disturbance to the occupants of 91 and 93 Brixton Hill. Given that the roof terrace can only be accessed from a bedroom, it is likely that users of the terrace would be limited to those who use that room. It is not a terrace acting as an extension to a kitchen /dining room whereby you might expect users to dine out/ entertain etc. As a result, it is unlikely that the use of the proposed terrace would result in unacceptable levels of noise and disturbance.
20. Whilst the proposal may result in some loss of daylight/sunlight, it has not been demonstrated that any adverse effects in that regard would create unacceptable living conditions for the occupants of 91 and 93 Brixton Hill.
21. For the reasons above, the proposed development would have an unacceptable impact on the living conditions of the occupants of 91 and 93 Brixton Hill in respect of outlook and privacy. Whilst the proposal would not result in unacceptable noise and disturbance to the occupiers of 91 and 93 Brixton Hill and it has not been demonstrated that the proposed development would have an unacceptable impact on the daylight/sunlight to the same occupants, the proposal would still be contrary to Policy Q2 of the LLP. Amongst other things, this policy advises that proposals will be supported if adequate outlooks are provided avoiding wherever possible any undue sense of enclosure or unacceptable levels of overlooking.

Other Matters

22. Whilst the scheme would provide appropriate living conditions for the occupants of 91 and 93 Brixton Hill in respect of noise/disturbance and daylight/ sunlight, the absence of harm in these matters is a neutral factor and does not weigh in favour of the proposal.

Planning Balance and Conclusion

23. The proposal would fail to preserve or enhance the character and appearance of the CA, it would fail to preserve the setting of 95 Brixton Hill as a Grade II listed building and would have an unacceptable impact on the living conditions of the occupants of 91 and 93 Brixton Hill, in respect of outlook and privacy. Substantial weight is afforded to these harms.
24. Paragraph 205 of 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. With reference to the harm to the CA and the setting of the listed building identified, given the scale and nature of the proposal, the degree of harm to the significance would be less than substantial, which Paragraph 208 of the Framework indicates should be weighed against the public benefits of the proposal.
25. Whilst the provision of additional living accommodation and outdoor amenity space is principally a private benefit, the improvement of the housing stock could be deemed a public benefit. Even if I were to treat it as such, given the scale of the proposal, this benefit would be given limited weight and would be insufficient to outweigh the less than substantial harm to the CA and the setting of the listed building identified.

26. Taking all of the above into account, the proposal conflicts with the development plan and material considerations do not indicate that the appeal should be decided other than in accordance with it.
27. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR