

Appeal Decision

Site visit made on 16 January 2017

by J A B Gresty MA MRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 January 2017

Appeal Ref: APP/K5600/D/16/3160687
25 Ladbroke Road, London W11 3PD

- 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 the London Diocesan Fund against the decision of the Council for the Royal London Borough of Kensington and Chelsea.
 - The application Ref PP/16/04792, dated 24 July 2016, was refused by notice dated 21 September 2016.
 - The development proposed is alteration to balustrading over rear kitchen extension and replacement of upvc French doors with heritage style in timber.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the development on the living conditions of the occupiers of nearby properties with respect to loss of privacy.

Reasons

3. The appellant has converted a small flat roof into a first floor roof terrace. The terrace is accessed through a pair of uPVC French windows and is enclosed on the three outer sides by timber panel balustrading, about one metre high. The works to form the roof terrace have been carried out without planning permission and the appellant seeks permission to install alternative balustrading and doors in order to continue the use of the flat-roof as a terrace.
 4. The terrace extends about three metres from the back wall of a three-storey rear projection of the main house. From the terrace there are clear and close views into the adjacent first floor and ground floor habitable windows of the neighbouring dwelling at 23 Ladbroke Road. As a consequence, use of the flat-roof as a terrace results in a loss of privacy for the occupiers of No 23, to the extent that there is significant harm to their living conditions.
 5. When sat down, the existing timber balustrade restricts views of No 23's adjacent windows. The proposed metal railings would open up these views into No 23's rooms and would not alter the immediate views into the rooms for users of the flat-roof when stood up. Accordingly, the proposed replacement of the wooden balustrade with metal railings to enable continued use of the flat-
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roof as a recreational space would not meet the requirements of Policy CL5 of the Royal Borough of Kensington & Chelsea Local Plan 2015 (LP).

6. There are clear views from the flat-roof into No 25's back yard and into the main body of No 27's back garden. Whilst both of these areas are visible from windows and roof terraces of other nearby properties, because of the appeal property's rear projection extends further from the main body of the house than the projections of most other nearby properties in the terrace, the views into No 23's back yard and No 27's garden from No 25's roof terrace are more immediate than the views from other nearby properties. The proposed railings would open up the views of the garden and back yard in comparison to the existing timber balustrading. The use of the flat-roof area as a terrace results in significant loss of privacy for users of the garden and back yard, harming the living conditions of the users of the garden and back yard. In this respect the proposed metal railings would be contrary to the requirements of LP Policy CL5.

Other Matter

7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The appeal property is situated in the Ladbroke Conservation Area. The proposed replacement French windows and railings would reflect the appearance of other nearby roof terraces visible from the back of the appeal property and would be in keeping with the character and appearance of the back of the appeal property. In this respect the proposed development would preserve the character and appearance of the Ladbroke Conservation Area and would not be reason to dismiss the appeal.

Conclusion

8. At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and it should make places better for people. Although the design of the proposed development would be keeping with the character and appearance of the local area, the use of the flat-roof as a roof terrace results in considerable loss of privacy for the occupiers of the neighbouring properties, with consequential harm to their living conditions, contrary to the aims of the Framework. Therefore, the proposed development to enable continued use of the flat-roof as an outdoor amenity area would not represent sustainable development as sought by the Framework and, for the above reasons, I conclude that the appeal should be dismissed.

J A B Gresty

INSPECTOR