
Appeal Decision

Site visit made on 23 October 2017

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 10 November 2017

Appeal Ref: APP/K5600/D/17/3181919

31-33 Ansleigh Place, London W11 4BW

- 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 Mr R Lister against the decision of the Royal Borough of Kensington and Chelsea Council.
 - The application Ref PP/17/03141, dated 10 May 2017, was refused by notice dated 19 July 2017.
 - The development proposed is the installation of metal railings at main roof level.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of metal railings at main roof level at 31-33 Ansleigh Place, London in accordance with the terms of the application, Ref PP/17/03141, dated 10 May 2017, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 82/706/01 and 02
 - 3) The railings hereby permitted shall be painted black and shall be retained as such thereafter.

Application for costs

2. An application for costs was made by Mr R Lister against the Royal Borough of Kensington and Chelsea Council. The application is the subject of a separate decision.

Main Issue

3. The main issue is the effect on the living conditions of nearby residents with regard to outlook.

Reasons

4. There have been two appeals relating to this property that are of relevance. In 2009, the Inspector concluded that a condition that had previously been imposed, preventing the use of the roof as a terrace, was necessary to protect the amenities of neighbours. In 2010, the Inspector allowed the installation of
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metal fencing at roof level on the basis that the railings were not harmful and the condition upheld by the previous Inspector remained extant and enforceable.

5. This proposal for the installation of railings is based on the same plans as those allowed at appeal in April 2010. The Inspector found that given their design (i.e. open railings, rather than solid fencing or screening) and their position in relation to surrounding windows, the railings would be unlikely to have a significant effect on the outlook from, or the light in, neighbouring dwellings. The proposal was not therefore in conflict with policies CD35, CD40 and CD46 of the Unitary Development Plan or policies CL 5 or CE 6 of the Proposed Submission Core Strategy.

Effect on living conditions

6. I have been provided with evidence from local residents as to the proximity of the proposed railings to their properties and photographs showing the views from some windows. I have also been on the roof to assess these relationships. It is not clear from the evidence that any of these relationships have altered since the previous permission. The Core Strategy has now been adopted but I have no information to suggest that policy CL 5 was materially altered between the Proposed Submission document and its adoption in 2015. The *National Planning Policy Framework* has come into force in the intervening years but with regard to considering the impact of proposals on the amenity of neighbouring residents, I am not satisfied that this materially changed the requirements of national policy.
7. I am not satisfied that there has been a material change in circumstances since the previous application was approved. Although the area to the rear of the building is constrained and the outlook from the adjoining properties is inevitably restricted, I am not satisfied that a limited height of open railing, above the existing parapet, would materially alter the living conditions of neighbouring residents with regard to outlook or light.
8. Overall, I have found nothing within the evidence to suggest that I should reach a different conclusion to that of the previous Inspector as the circumstances have not changed and on the basis of the evidence before me, I do not find conflict with the amenity requirements of policy CL 5 with regard to the impact on living conditions.

Other matters

9. The property lies within the Avondale Conservation Area which was designated in 2013. I am required to assess whether the proposal would preserve or enhance its character or appearance. The Council found when considering the same proposal in 2015, that it would preserve the character and appearance of the property and the conservation area. This conclusion was also reached by the Council when considering this application. The building has been converted from a commercial use and the railings would remain in keeping with its original character. There are other high level railings on the adjoining property. I agree with the Council that the introduction of these railings would have a very limited wider impact and given their scale and design would preserve the existing character of the conservation area. The works would satisfy the duties set out within the legislation and the heritage requirements of the *Framework*.

10. Local residents have raised concerns with regard to the potential for the future use of the roof as a terrace. This would lead to an unacceptable loss of privacy as was found by the Inspector in 2009. I share their concerns with regard to the increased attractiveness of the roof for such a use should the railings be installed. However, this is a matter that was considered when the conversion of the property was originally accepted when the condition restricting the use of the roof was first imposed. In 2010, the Inspector took the view that only the works should be considered as the previously imposed condition was sufficient to restrict the use of the roof. I have adopted the same approach and given that the Council remain able to control the use of the roof, which will no doubt be closely monitored by the neighbouring residents, the original condition will continue to ensure that overlooking and noise will not unacceptably harm living conditions.

Conclusions

11. I have considered all the matters put forward by the Council and local residents. The railings would not result in unacceptable harm to the living conditions of neighbouring properties. There are also no matters that indicate that an alternative view to that previously taken would be justified. I therefore allow the appeal.
12. I have imposed conditions relating to the commencement of development and the details of the approved plans in the interests of proper planning and to provide certainty. I have repeated the condition requiring that the railings are painted black to ensure that the works would have a satisfactory appearance.

Peter Eggleton

INSPECTOR