



Appeal Decision

Site Visit made on 14 July 2021

by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2021

Appeal Ref: APP/K5600/D/21/3269144

55 Cadogan Street, London SW3 2QJ

- 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 D Juxon against the decision of The Royal Borough of Kensington and Chelsea.
 - The application Ref PP/20/05870, dated 23 October 2020, was refused by notice dated 24 December 2020.
 - The development proposed is described as a retrospective application for the addition of black painted metal railings to the rear closet wing. To facilitate the maintenance of the roof level at 55 Cadogan Street safely, black painted metal railings retained from the existing property have been added to the rear closet wing roof, with access through an openable rooflight. The roof will be used for the purpose of maintenance only and will not be used by the occupants for leisure purposes. The proposed black painted metal railings which were retained from the existing property, are in-keeping with the style and scale of railings seen throughout the surrounding block, an area characterised by roof terraces with railings at different heights and sizes.
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Decision

1. The appeal is allowed and planning permission is granted for the addition of black painted metal railings to rear closet wing roof at 55 Cadogan Street, London SW3 2QJ in accordance with the terms of the application, Ref: PP/20/05870, dated 23 October 2020, and drawing numbers: 8331/906/P01 and 8331/908/P01.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. However, in the decision above I have used the description that is used in the appeal form and on the Council's decision notice as it is more precise. I have omitted reference to the application being retrospective as it is superfluous.
3. During the course of the appeal the revised National Planning Policy Framework was published (20 July 2021). The main parties have been given the opportunity to comment. My decision has been made in the context of the revised Framework.
4. I saw during my site visit that the railings have already been installed and therefore I am considering the proposal retrospectively.

Main Issues

5. The main issues are i) whether the proposal would preserve or enhance the character and appearance of the Chelsea Conservation Area and ii) the effect of

the proposal on the living conditions of the occupiers of neighbouring properties with reference to privacy and noise and disturbance.

Reasons

Conservation Area

6. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving and enhancing the character or appearance of Conservation Areas. Policies CL1, CL2, CL3, CL4 CL6 and CL11 of The Royal Borough and Kensington and Chelsea Local Plan 2019 (KCLP) seek to, amongst other things promote good design that preserves or enhances conservation assets within the Borough.
7. The Chelsea Conservation Area (CA) is characterised predominantly by formal terraces constructed from yellow stock brick with stucco decoration and vertical sliding timber sash windows. Its significance is derived from groups of generally modest residential terraces that vary in age and architecture ranging from small two storey terrace houses to larger terraced houses and flats of 5 storeys thus reflecting changing fashions in urban design.
8. The appeal property is an attractive terraced property of four storeys in height. It is finished in stucco at ground floor with yellow stock brick above. There is an attractive portico entrance and ornate first floor balcony to the principal elevation.
9. The rear the property has an existing closet wing that has been extended upwards to the third storey. The neighbouring properties at either side have two storey closet wings with roof terraces above and I saw during my site visit that this is a common occurrence both on this terrace and on other buildings visible from the appeal property.
10. The extended closet wing has a flat roof with a low parapet wall and is accessed via an opening roof light and folding internal ladders from the inside landing. There are low level black metal railings around the perimeter of the parapet wall thus containing the flat roof space. I noted during my site visit that these railings and indeed high level and roof level terraces were a common feature of the surrounding locality. Owing to their modest scale, design and location I find that the railings have a neutral impact on the area and therefore the character and appearance of the CA is preserved.
11. Accordingly, I conclude that the proposal would comply with the requirements of Policies CL1, CL2, CL3, CL4 CL6 and CL11 of the KCLP. Collectively, these policies seek to ensure developments are of a good quality design that protect and promote the special qualities, character and distinctiveness of the local area including the CA and buildings of architectural or historic importance.

Living Conditions

12. The Council consider that enclosure of the existing flat roof with railings would lead to its unfettered use as an external amenity space thus causing harm to the living conditions of neighbouring residents by way of overlooking and noise and disturbance. The Council also consider that the use of the roof as a terrace could not be effectively controlled by way of a planning condition.

13. I saw during my site visit that a number of properties in the terrace and indeed in the immediate vicinity of the appeal property have roof terraces on the closet wings or on other rear extensions. It is a common feature of the locality albeit I accept that those I was able to view from the appeal site were predominantly at first or second floor level or on the main roof of the buildings. I also noted that properties either side of the appeal property had second floor roof terraces which would enable views over the adjacent properties and into the upper floor windows of the neighbouring houses. Given the dense urban grain of the locality and the relatively limited areas of private amenity spaces roof terraces in close proximity of shared boundaries or windows are not uncommon.
14. Notwithstanding the above, whilst the railings would facilitate safer use of the flat roof for amenity purposes, the space is not set up as a terrace, nor is access to the roof via a folding ladder and roof hatch, easily obtained. Indeed, even if there were no railings around the perimeter of the flat roof it could already be utilised as a terrace albeit without the safety feature and with the existing rather convoluted access route.
15. Even if I were to find that the railings were likely to lead to the use of the existing flat roof as a terrace, I do not consider that the impact on neighbouring occupiers in terms of noise and disturbance or overlooking would be materially different to that arising from the previous terrace at second floor. This is because the relationship between the original terrace and the upper floor windows of the neighbouring properties is very similar albeit at a higher level. Consequently, I do not agree with the Council's conclusion that the railings would lead to unacceptable harm to the living conditions of the neighbouring occupiers in regard to privacy or noise and disturbance.
16. Accordingly, the proposal would comply with the requirements of Policies CL5 and CE6 of the KCLP which seek to ensure good living conditions for occupants of new, existing and neighbouring buildings.

Other Matters

17. I note the comments made by neighbouring residents in reference to unresolved planning issues at the appeal property. However, this is not something that I can deal with as part of a Section 78 appeal and any queries in this regard must be directed to the Council.

Conditions

18. I have considered the suggestion to attach a planning condition that would restrict the use of the flat roof so that it could not be used as a terrace. However, in this instance I would agree with the Council that it would be difficult to enforce and therefore I am not convinced that it would meet the six tests set out in the Planning Practise Guidance.
19. Given that the railings are already in position it is not necessary for me to attach any other planning conditions.

Conclusion

20. For the reasons set out above and taking into account all other matters raised, I conclude the appeal should be allowed.

J Hunter

INSPECTOR