



Appeal Decision

Site Visit made on 3 November 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/K5600/D/21/3273161

94 Oxford Gardens, LONDON, W10 6NG

- 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 Mrs Tricia Polo-Guild against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/00501, dated 25 January 2021, was refused by notice dated 1 April 2021.
 - The development proposed is a frameless glass balustrade to the edge of an existing flat roof for safety/maintenance purposes.
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Decision

1. The appeal is allowed and planning permission is granted for a frameless glass balustrade to the edge of an existing flat roof for safety/maintenance purposes at 94 Oxford Gardens, LONDON, W10 6NG, in accordance with the terms of the application, Ref PP/21/00501, dated 25 January 2021, and the plans numbered SM1603 P03 and SM1603 P04.

Preliminary Matters

2. The glass balustrade has already been installed and so I have considered the proposal retrospectively.
3. Since the Council made its decision, a revised version of the National Planning Policy Framework (the Framework) has been issued. As no significant changes have been made to provisions in the Framework concerning the protection of the historic environment, or to the need to ensure a high standard of amenity of existing users, which are the pertinent issues in this appeal, I am satisfied that the revisions do not prejudice the case of either party.

Main Issues

4. The main issues are:
 - whether the development preserves or enhances the character or appearance of the host property and the Oxford Gardens Conservation Area; and
 - the effect of the development on the living conditions of occupiers of the adjoining properties, with particular regard to privacy, noise and disturbance.

Reasons

Character and appearance

5. The appeal property is a substantial end-terraced house, located in a prominent position on the corner of Oxford Gardens and St Marks Road. The attractive brick and stucco building, with curved side wall, decorative features around the windows and doors, and bay windows on three main elevations, is typical of the form of development in this part of the Oxford Gardens Conservation Area (CA), and contributes positively to it.
6. As with other properties in the surrounding area, the front and side elevations of 94 Oxford Gardens (No. 94) are set back from the road, and the property has a good sized rear garden. The spaces around the buildings contribute to a grand and spacious feel to the area, and street trees and planting within the gardens provide a green and attractive environment.
7. The glass balustrade has been installed on the roof of the ground floor extension, in front of a large bay window. The balustrade is contemporary in appearance, but it is not unattractive, and has been constructed above an extension at the rear of the building which is itself a modern addition, with clean lines and a large amount of glazing. Given the design and materials of the balustrade, and its position on an existing extension, it does not appear incongruous or intrusive in relation to the host building, despite the slight green/blue tint to the glass.
8. The rear and side of No. 94 are prominent features in the streetscene, but when viewed from the street, the frameless glass balustrade is not overly conspicuous, and is only visible in near views. From many vantage points along Oxford Gardens, it is either too far away to be seen, or is screened by the high brick garden wall and the trees within both the garden and street. Even where the structure can be seen, its lightweight, clear appearance does not form a particularly noticeable feature in the streetscene, despite its elevated position. The effect of the development on the wider CA is neutral.
9. I conclude that the development preserves the character and appearance of the host building and the Oxford Gardens CA. The development complies with Policies CL1 and CL2 of the Kensington and Chelsea Local Plan 2019 (Local Plan), which require development to be of the highest design quality and to respect the existing context, character and appearance. The scheme also complies with Local Plan Policy CL3, concerning the preservation of heritage assets; and is consistent with Policies CL6 and CL9, which require small scale alterations, additions and modifications to respect the character of existing buildings. The development does not interrupt, disrupt or distract from a local view or vista, and does not conflict with Policy CL11.

Living conditions

10. The extension roof, upon which the balustrade has been installed, can be accessed from the rear bay window which serves the ground floor living room. However, its use as a roof terrace is precluded by condition 5 of application ref PP/13/04611, which was imposed to avoid overlooking and disturbance to neighbouring properties.
11. By providing a barrier, the balustrade enables the space to be used more safely, and this could encourage its more intensive use. However, the

appellant has confirmed that the space is not used as a roof terrace, and that the balustrade has been erected for maintenance purposes, to ensure the safety of the appellant's gardener when tending the plants on the roof area. I also note the appellant's comment that the previously consented Juliette glass balustrade to the bay window is to be reinstated to restrict access.

12. According to the application form the balustrade has been in place since 2017 and from the information provided, there does not appear to be evidence of any particular problems that have been caused by it. The appellants have access to a reasonably sized and attractively landscaped rear garden, so outdoor space is available without need to use the small roof area. Rather, the balustrade and roof planters appear part of the appellant's overall design concept for the property.
13. I saw on my site visit that the roof area is close to the side bay window of the neighbouring property, but the presence of the balustrade does not alter the restriction imposed by condition 5, which remains in place to avoid any loss of privacy. The limited use involved in tending the planters does not in itself result in any significant loss of privacy, noise or other disturbance.
14. The presence of a chair on the enclosed roof on a google street map image may indicate a past breach of condition 5, but that does not justify dismissing this appeal.
15. I conclude that the appeal proposal does not in itself result in harm to the living conditions of occupiers of the adjoining properties, either from loss of privacy or noise and disturbance. It is consistent with Local Plan Policy CL5, which requires development to ensure good living conditions for occupants of new, existing and neighbouring buildings.

Conditions

16. The balustrade is already installed, and so no conditions are necessary.

Conclusion

17. For the reasons given, the appeal is allowed.

R. Morgan

INSPECTOR