



Appeal Decision

Site visit made on 7 December 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/K5600/D/21/3284233

34 Moore Street, London SW3 2QW

- 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 Rainer Lenhard against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/03317, dated 19 May 2021, was refused by notice dated 15 July 2021.
 - The development proposed is the installation of railings on roof.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site inspection the railings were in place, I shall therefore deal with the proposal as one under s73A of the Act for development already carried out.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the building and the Chelsea Conservation Area (the CA)
 - the living conditions of nearby residents with particular regard to privacy and noise disturbance.

Reasons

Character and appearance

4. No34 Moore Street is an extended mid-terrace building of 5 storeys. The exterior of the building's frontage retains many of its high-quality original features, such that, along with similarly styled neighbouring properties, it provides a positive contribution to the character of Moore Street. The high degree of consistency of the C19 building features, scale and materials provides a coherent and harmonious character in this part of the CA.
5. The properties have railings at street level where they fringe lightwell areas about basement levels and embellish the steps to the raised main entrances. At first floor level, ornate railings border narrow balconies. In contrast, the roof railings have a simple functional form which lacks the detail or quality of the ornamental railings below.

6. The railings are visible above the front parapet wall from part of Moore Street. Whilst only the top portion of the front railings can be seen from street level, greater views are afforded from the consecutively higher floors of most of the buildings on the opposite side of the street. This is evident from photographs submitted showing the outlook from a nearby residence.
7. Although there is some variation in the heights of buildings along the eastern side of Moore Street, the flat roofs and parapets provide a clean edge to the street's skyline. As a small-scale addition, the presence of the railings visually interrupts this characteristic aspect of the local development.
8. The railings are also prominent in views to the rear of the building, particularly along the perpendicular arm of Clabon Mews, which provides a view into the CA. Here the railings have significant prominence and rise high above the parapet introducing a discordant feature to the rear roof edge of the terrace.
9. I note that some other examples of similar railings are present on an adjoining roof and elsewhere along the street; however, the Council indicates that these are unauthorised and this is not disputed by the appellant. Regardless, these are very much in the minority and, in any case, the existence of development elsewhere does not represent an appropriate reason to find in favour of development that causes harm or leads me to alter my findings on this issue.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Together, the harm to the character and appearance of the building identified above, would adversely affect the consistent nature of development along Moore Street. Accordingly, I find it fails to preserve the character and appearance of this part of the CA and the views into it.
11. In the context of the National Planning Policy Framework (the Framework), the extent of overall harm of the proposal would be less than substantial given the nature of the development. Paragraph 202 of the Framework advises that such harm should be weighed against the public benefits of the proposals. This is a matter I return to below. Nevertheless, it is important to note that, in accordance with Paragraph 199 of the Framework, great weight should be given to the asset's conservation. Furthermore, the development conflicts with Policies CL1, CL2, CL3, CL6 and CL11 of the Royal Borough of Kensington and Chelsea Local Plan [2019] (LP) as they seek development to be of high quality design, attractive in their existing context, and to preserve or enhance the character and appearance of buildings and the areas they are located in, including Conservation Areas.

Living Conditions

12. According to the appellant, it is not the intention to use the roof area as a rooftop garden or for similar purposes. Access would only be required in conjunction with roof maintenance and as an escape route in the event of fire or other emergency. As temporary and infrequent occurrences, I find that any effects arising from overlooking or the creation of noise during those limited times would not cause undue harm to the living conditions of neighbouring residents.

13. Furthermore, the use of the roof is restricted by the terms of planning permission Ref. PP/03/00054. In the interests of protecting the privacy and amenity of neighbouring property, Condition 6 of that permission prevents the use of the roof as a terrace without the prior written approval of the Local Planning Authority. There is little before me to indicate that any such authority has been granted or that there have been breaches of that Condition to cause adverse effects on the living conditions of nearby residents.
14. As a mechanism for restricting the use of the roof exists and would provide the Council with a means to address concerns in relation to any adverse impacts on neighbours' living conditions, I find the installation of the railings would not, in themselves, cause harm in that regard.
15. In the particular circumstances of the case, the development would therefore be consistent with Policies CL5 and CE6 of the LP as they seek to secure good living conditions for the occupants of neighbouring buildings.

Other Matters

16. In support of the proposal the appellant highlights that the railings are necessary in conjunction with roof maintenance and in the event of fire outbreak at the property. There is little to demonstrate the need for the railings behind the roof parapets in association with roof maintenance, or that less impactful alternatives could not achieve similar standards of safe working. As a permanent feature which would likely be seldom utilised for that purpose, I find this is a matter of limited weight in favour of the development.
17. I have little doubt that the presence of railings could increase safety for occupiers of the building who might need to escape via the roof in the event of emergencies. However, the plans show the rooftop to be fully enclosed by the fencing in conjunction with the existing chimney stacks. This would potentially frustrate movement or create a barrier for some to access a neighbouring roof or the consecutive lower roofs to the rear of the building to aid escape. Should neighbouring occupiers introduce railings to their own roofs, this would further frustrate movement across the buildings. Whilst I acknowledge the benefit to the occupiers and the support found in the London Plan [2021] in relation to safety and emergency evacuation, I am not persuaded that the railings have been purposely designed to fulfil and maximise that safety function for all. Nevertheless, it is a benefit of moderate weight.

Planning Balance and Conclusion

18. Taking all of the above together, whilst I have found in favour of the appellant with regard to the effect of the development on neighbours' living conditions and recognise that some safety benefits would accrue, these matters do not outweigh the significant harm to the character and appearance of the building and the CA. It would conflict with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

R Hitchcock INSPECTOR