



Appeal Decision

Site visit made on 3 November 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023

Appeal Ref: APP/K5600/W/22/3295738

91 Oakley Street, London, SW3 5NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr and Mrs Ashley Aylmer against Royal Borough of Kensington and Chelsea.
 - The application Ref PP/21/05581, is dated 23 August 2021.
 - The development proposed is alterations to roof terrace access hatch and installation of balustrades to front and rear elevations to enclose roof terrace.
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Decision

1. The appeal is allowed, and planning permission is granted for alterations to roof terrace access hatch and installation of balustrades to front and rear elevations to enclose roof terrace at 91 Oakley Street, London SW3 5NR, in accordance with the terms of application, Ref PP/21/05581, dated 23 August 2021, and subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawing numbers: 91OS-APP-001, 91OS-APP-005, 91OS-APP-007, 91OS-APP-008, 91OS-APP-009.
 - 3) Notwithstanding condition 2, no development shall commence until details / samples of the materials to be used in the construction of the front and rear balustrades hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

Background and Main Issue

2. This appeal has been lodged following the Council's failure to determine the application within the relevant timescale. The Council in their submission include a reason for refusal had they been in a position to determine the application along with an appraisal of the scheme. This includes reference to those development plan policies that the Council considers to be relevant to the refusal reason put forward.
3. In view of this background, the main issue is whether or not the proposed balustrades to the front and rear elevations would preserve or enhance the character or appearance of the Cheyne Conservation Area (CCA).

Reasons

4. The appeal dwelling is part of an attractive five storey terrace (including basement) situated on the western side of Oakley Street and within the CCA.
5. Oakley Street contains mainly Classically inspired terraces in the Regency / early Victorian style. These are notable for their symmetrical frontages which comprise sash windows, stepped entrances and part brick, part stucco elevations. The appeal property shares these common characteristics and thus makes a positive contribution to the architectural and historic significance of the Conservation Area.
6. However, the uniform alignment of roof parapets, particularly along the west side of Oakley Street, is frequently broken by guard rails, roof hatches, TV ariels, and satellite dishes. Although these are minor additions their protrusion and disjointed arrangement has partially eroded the uniformity of the terrace particularly at roof level. Acknowledging this, the Cheyne Conservation Area Appraisal (CCA Appraisal) states that the presence of existing guard rails or trellises have harmed the historic character and appearance of the street.
7. The appeal dwelling, like others in the street has a roof terrace, which has likely replaced the original "butterfly" roof. The existing front and rear elevation drawings show the roof enclosed by black tubular railings. Yet, I observed, during my site visit, that these had been removed. The proposed balustrading would comprise glazed panels rising around 1.1 metres above the roof terrace and positioned close to the inner face of the roof parapet.
8. The proposed glazing would be visible from the street and would be seen rising above the roof parapet. The balustrading's modern design and finish would contrast somewhat with the property's historic frontage. However, the glazing would have a transparent appearance that would become imperceptible in medium and long-range views. Moreover, it would be flanked by glazed balustrading at Nos 90 and 92 Oakley Street as well as being seen in context with a variety of other railings and protrusions along the frontage. Taking account of the above, I am satisfied that the proposed balustrading would be in keeping with the variation in style that already exists along the terrace.
9. The rear of the appeal property is only partially visible in views from other dwellings in the terrace due to the high sided parapet walls. These would frame and rise above the glazing, largely obscuring it from view. From Glebe Place to the rear, views are constrained and somewhat angled given the shorter height of properties, and, again, I am satisfied that the glazed balustrading would not be incongruous, or indeed readily discernible on the dwelling. I have also considered the fact that the rear elevation of this particular terrace lacks uniformity and rhythm, due to other alterations and extensions along its length, as well as domestic paraphernalia positioned on roof terraces.
10. The Council indicates that the glazed balustrading at No 92 has not received planning consent and accordingly should not be used to justify the proposed scheme. Nevertheless, I saw similar balustrading enclosing the roof terraces at No 90 and No 98 Oakley Street, and I have no firm evidence to indicate that those examples did not receive consent. Therefore, whilst I acknowledge the Council's position to resist glazed balustrading, in this instance it is already part of the terrace's character.

11. The Council would favour black railings as a means of enclosing the appeal property's roof terrace. However, the appellant has misgivings regarding the effectiveness of these in terms of safety. Given that the railings would likely have large gaps between them, a more solid barrier, such as the proposal would, in my view, likely improve the overall safety of occupiers when the terrace is in use. This matter therefore adds weight in favour of the proposal.
12. I conclude that the proposed balustrades to the front and rear elevations would preserve the character and appearance of the CCA. There would be no conflict with policies CL1, CL2, CL3, CL6, CL8 and CL11 of the Local Plan 2019 which requires development to respond to local context, to be functional, to be discretely located, preserve or enhance the character or appearance of the conservation area, and to protect and enhance views that contribute to the character and quality of the area.

Conditions

13. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance, amending them where necessary. I have also sought agreement from the Appellant to the pre-commencement condition.
14. In addition to the standard time limit condition, I have considered it necessary to include a schedule of plans that the development relates to, for the avoidance of doubt and in the interests of certainty. A condition requesting a sample of the glazing used for the balustrading is necessary in the interests of the area's character and appearance.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed and planning permission granted.

RE Jones

INSPECTOR