



Appeal Decision

Site visit made on 17 July 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/K5600/D/24/33440029

91 Chesterton Road, London W10 6ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gerrard Boujo against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/07290/Q21.
 - The development is the erection of railings on a flat roof.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of railings on a flat roof at 91 Chesterton Road, London W10 6ET in accordance with the terms of the application, Ref PP/23/07290/Q21, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; A101 and A201 and A901.

Main Issue

2. It is considered that the main issue is the effect of the proposed development the living conditions of the occupiers of 89 Chesterton Road.

Reasons

3. The appeal scheme includes the erection of black iron railings at first floor level around a roof of a single storey rear addition. This addition was erected pursuant to a previous planning permission granted by the council (Ref PP/20/04576) but with a Juliette balcony opening which would have precluded easy access to the roof. A copy of this planning permission and the approved drawings were provided by the council.
4. The addition is sited adjacent to the shared boundary with 89 Chesterton Road. If the addition's flat roof was used as an amenity area it would afford direct overlooking into the garden of this neighbouring property thereby materially affecting the privacy of the occupiers.
5. However, the appellant claims that the railings have been erected for safety reasons associated with maintaining the roof rather than using this area for amenity purposes. Internally, the door which provides access to the roof is separated from the main living space by the void associated with a staircase

and railings so external access is limited. However, the Juliette balcony shown as part of the previous permission does not exist.

6. Irrespective of the railings now enclosing the roof and whether the door could provide access, there is an extant condition imposed by the previous planning permission which precludes the use of the flat roof as a terrace or amenity space. This appeal scheme does not seek to alter this condition and, as such, it would still be enforceable by the Council.
7. Accordingly, with the existence of this extant condition, the development does not cause unacceptable harm to the living conditions of the occupiers of 89 Chesterton Road and, as such, it does not conflict Policy CL5 of the Local Plan. Amongst other matters, this policy requires good living conditions for existing residents, including by reason of visual privacy.

Other Matters

8. The Council has not raised any concerns in respect of the development failing to preserve the heritage significance, character or appearance of the Oxford Gardens Conservation Area. There are no reasons to reach a different judgement on these matters.

Conditions

9. The only condition which is considered necessary for this appeal scheme is the identification of the approved drawings for reasons of clarity. Accordingly, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR