



Appeal Decision

Site visit made on 5 November 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/K5600/W/23/3326534

First And Second Floor Flat, 301 Portobello Road, London W10 5TD

- 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 Ms Brooke Andrews against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/00272.
 - The development proposed is described as "retention of roof terrace; glass security guardings to rear elevation".
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Decision

1. The appeal is allowed and planning permission is granted for alterations to form roof terrace; glass security guardings to rear elevation at First and Second Floor Flat, 301 Portobello Road, London W10 5TD in accordance with the terms of the application, Ref PP/23/00272, subject to the following condition:-
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos. 20/23/00 revision A, 22/46/01, 22/46/09 and 22/46/10.

Preliminary Matters

2. The description of development in the header is taken from the application form. In my decision I have replaced the phrase "retention of" with "alterations to form" to ensure the description includes an act of development. This revision causes no injustice to any party.
3. The appeal development affects the main roof of the appeal property (No 301) on the highest part of the building. A submitted drawing also shows the provision of balcony rails and French doors onto a roof of a rear projection to the property. However, the drawing indicates that such works are the subject of another planning application. As such, these works do not form part of the appeal development and they have not been considered in my assessment.
4. On my visit I saw that a terrace area has already been constructed on the main roof of the building, although the glass guarding had not been provided. As such, the development has commenced.
5. Since the Council issued its decision, it has adopted a Local Plan Review document dated July 2024 (the LPR). This now forms part of the development plan for the area. The policies from the previous Royal Borough of Kensington and Chelsea Local Plan 2019 (the LP) as referred to in the Council's refusal

reasons have all been superseded by LPR policies. I have had regard to the relevant LPR policies and comments on these from the main parties.

6. The Council's appeal statement refers to LPR policies CD11 and CD14. These policies relate to basements and shopfronts and so they are not relevant to my deliberations on this appeal. It would appear that the references should instead be to LPR policy CD12 on roof alterations and to LPR policy CD15 on views. I have taken these policies into account.

Main Issues

7. The main issues are the effect of the development on the character and appearance of the area and its effect on the setting and the significance of Oxford Gardens Conservation Area (the CA). In carrying out my assessment, I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA.

Reasons

8. No 301 is 3 storeys high with a restaurant on the ground floor and a residential unit on the upper levels. It lies in a row of similar properties facing onto Portobello Road. The CA boundary runs along the rear of the appeal site. As such, No 301 and the Portobello Road properties are outside the CA but the nearby dwellings on Cambridge Gardens and Oxford Gardens lie within it. The evidence indicates the CA gains its significance from the age, uniformity and architectural quality of its buildings.
9. The Portobello Road properties all have butterfly roofs. As a consequence, there is a clear, regular pattern of ridges and valleys along their rear elevations. Also, many of the properties in the terrace have flat roof rear projections of a similar size and design to that at No 301. I saw several of these flat roof areas contain railings and outdoor furniture, suggesting they are used as outdoor residential terraces. The pleasing uniformity to the rear of the row of properties contributes positively to the setting of the CA.
10. The removal of the roof slopes on No 301 so as to create a flat terrace has already been carried out. These alterations are not visible from ground level due to the height of the building. Moreover, a parapet wall to the front prevents views onto the roof from windows in the upper storeys of buildings on the opposite side of Portobello Road.
11. The Council suggests that the rear of the Portobello Road properties lies within an important gap within the CA. However, the rear of No 301 is not prominent from any public vantage point due to the screening effect of buildings on Cambridge Gardens and Oxford Gardens. Moreover, the alterations to the roof to create the terrace have not affected the rear wall of No 301 so that the regular pattern of ridges and valleys along the terrace remains the same. The proposed glass guarding would project above the uppermost part of the back wall. However, it would be transparent and set back from the edge of the roof and so it would be inconspicuous.
12. Therefore, I find the alterations subject of this appeal do not make a meaningful difference to the appearance of No 301 as seen from local roads or nearby properties. Accordingly, the development is sympathetic to the form and character of No 301 and the row of buildings as required under the terms of LPR policy CD12. It is noteworthy that Part C of this policy differs from its

equivalent in the LP as it only resists additional storeys on buildings. The appeal development relates to roof alterations and provision of a terrace rather than a new storey and so part C of LPR policy CD12 is irrelevant.

13. It is likely that typical garden features such as outdoor furniture and potted plants would be kept on the terrace. Indeed, I saw such items on the roof when I visited the site. Some of these were visible from Portobello Road above and in front of the parapet wall. However, they were only seen when looking upwards and they were viewed alongside television aerials and chimneys that protrude above other buildings in the row. As such, I envisage paraphernalia kept on the terrace would not be prominent in Portobello Road and it would not unduly distract from the visual qualities of the street scene.
14. People and features on the terrace may be visible from the private gardens to the rear. However, such views are at least partly obscured by the screening effect of trees. Also, the rear elevations of houses on Oxford Gardens and Cambridge Gardens face each other rather than towards the buildings on Portobello Road. Therefore, any person or item on the terrace is only seen at an angle from the rear windows of the properties within the CA. As such, activities and features on the terrace only have a minor visual impact so that the setting of the CA is preserved.
15. For these reasons, I conclude the development has an acceptable effect on the character and appearance of the area. Also, it causes no harm to the setting and the significance of the CA. In these regards, it would accord with LPR policies CD1, CD2, CD3, CD12 and CD15. Amongst other things, these seek to ensure development respects the context, character and appearance of an area and preserves or enhances the significance of designated heritage assets. The Council also refers to LPR policy CD9 but this contains no provisions relevant to the main issues.

Other Matters

16. Interested parties raise other objections to the development. The terrace allows elevated views onto adjoining properties to the side and rear of No 301. However, such views are similar to those from the upper floor windows in the back of the property. As such, the terrace does not result in an unacceptable intrusion of privacy.
17. The application leading to this appeal makes no mention of lighting on the terrace. In any event, I am satisfied that any lights would be a sufficient distance away from windows in the nearby properties to avoid any significant harm to living conditions. Activities on the terrace may lead to noise and the smell of barbeques. However, these would be typical of residential properties and similar to the effects of outdoor activities that are likely to occur in local gardens and on the existing terraces to the rear of the Portobello Road properties. Therefore, the development does not cause significant detriment to the living conditions at nearby residences. These concerns do not justify the refusal of planning permission and so they fail to affect my overall conclusion.

Conditions

18. I have had regard to the planning conditions as suggested by the Council in light of the advice on conditions as set out in the National Planning Policy Framework. In the interests of clarity, I attach a condition that requires the

development to be carried out in accordance with the approved drawings. As the development has commenced there is no need for a condition that requires implementation of the scheme within 3 years of the date of this decision. Also, there is no need for a condition that requires works to match the existing exterior of the building as the alterations do not affect the parts of the property that are readily visible. The suggested condition on black railings is not included as the installation of railings do not form part of the appeal development.

Conclusion

19. For the reasons given above, I conclude the development accords with the LPR and so the appeal should be allowed.

Jonathan Edwards

INSPECTOR