



Appeal Decision

Site visit made on 20 June 2025 by R Dickson BSc (Hons) MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2025

Appeal Ref: APP/K5600/D/25/3358868

95 Drayton Gardens, Kensington and Chelsea, London SW10 9QU

- 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 Jeff Slack against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/24/06057.
 - The development proposed is for alterations on access to roof terrace and proposed railings.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposed development on the living conditions of the neighbouring occupiers, with specific regard to privacy; and the effect of the access doors on the character and appearance of the area, with specific regard to the setting of the nearby Thurloe and Smith's Charity Conservation Area.

Reasons for the Recommendation

Living conditions

4. The rear of dwellings on Drayton Gardens and the rear of the dwellings on Thistle Grove face each other and in most cases are separated by small courtyard gardens. The appeal site, 95 Drayton Gardens, is one of a pair of semi-detached dwellings with mansard roofs. No 95 has been subject to a number of alterations, including a first-floor rear extension that has resulted in a flat roof. The proposal would introduce a roof terrace with railings onto the flat roof, together with glazed doors.
5. No 95 is taller than the buildings on Thistle Grove, and the roof terrace would be significantly higher than the courtyard gardens below. Despite the tall boundary walls and fences separating the rear gardens, the elevated position of the roof terrace would allow views into gardens of the neighbouring buildings on Drayton Gardens, as well as the gardens of dwellings on Thistle Grove. Although there is an existing Juliette balcony at a similar level on the host property, the roof terrace

would project further from the building, providing wider views than currently exist. This would provide opportunities for increased overlooking into the surrounding gardens, negatively affecting the privacy, and therefore the living conditions, of neighbouring occupiers.

6. The appellant says that the proposed roof terrace will be used only for maintenance, the importance of which has been highlighted to me by the current occupiers. Maintenance of the flat roof would likely be regular but infrequent and access onto the terrace would be for limited periods of time to carry out maintenance. Accordingly, if only used for such purposes the potential for overlooking into neighbouring properties would be infrequent, and for only short periods of time, reducing the overall harm to the living conditions of neighbouring occupiers to an acceptable level, ensuring reasonable visual privacy for neighbours.
7. Although the current occupiers propose only to use the flat roof for maintenance, I cannot be certain that its use by any future occupants would also be limited to maintenance only. Given the small, sunken nature of the existing garden, it is highly likely that occupiers would want to use the flat roof as an amenity space. The installation of the proposed doors would provide easy and convenient access, which is unlikely to dissuade such use. While the appellant has suggested that this is the only safe means of access, I have limited details of the alternatives considered other than internal ladders or external scaffolding, nor have I been provided with a maintenance schedule detailing the frequency of maintenance required such that it would warrant a permanent means of access. Therefore, it has not been demonstrated that there is no other reasonable way to achieve maintenance access without also making it easy and convenient to use the flat roof in such a way as to harm the privacy of neighbours.
8. It is suggested that the use of the flat roof could be controlled by a planning condition, but I have not been provided with suitably precise wording or another mechanism which would control the future use of the terrace, preventing it being used as outdoor space for day to day living. Furthermore, given the position of the terrace to the rear of the dwelling out of public views, enforcement of such a condition would be wholly reliant on the neighbouring occupiers reporting unauthorised usage to the Council, as no other means of monitoring compliance has been put to me. It is unlikely that neighbours would be comfortable with reporting a breach of planning conditions, as this could lead to neighbour disputes in future. Therefore, I am not satisfied that a condition limiting the use of the terrace would be enforceable in these circumstances.
9. Accordingly, the proposal would harm the living conditions of the neighbouring occupants, with specific regard to privacy. It is therefore in conflict with policy CD9 of the Royal Borough of Kensington and Chelsea Local Plan 2024 (Local Plan) which requires all development to ensure good living conditions, including reasonable visual privacy, for the occupants of neighbouring buildings.

Character and appearance

10. The site itself is not within a Conservation Area (CA), however it backs onto the Thurloe and Smith's Charity CA. The roof terrace, railings, and proposed door

would only be seen in private views within the CA, which derives considerable significance from its high-quality architecture of the historic buildings.

11. The glossary of the National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which it is experienced. The Planning Practice Guidance (PPG) goes further to note that the setting of a heritage asset and the asset's curtilage may not have the same extent¹. Within private views, owing to its close proximity, 95 Drayton Gardens contributes to the setting of the CA by providing a backdrop within which the properties that contribute positively to the CA are experienced.
12. The buildings on Drayton Gardens have little consistency or uniformity in their rear elevations. Even though No 95 is one half of a semi-detached pair, it has had a number of alterations to the rear elevation which has made it different to its neighbour. The proposal would introduce additional glazing onto the rear elevation, which would be situated below and in line with an existing window.
13. The increased glazing would alter the appearance of the rear elevation, however the design of the door, with smaller panes of glazing, would echo the detailing of the other windows on the rear of No 95. Given the variation between the rear elevations facing onto the CA and the extent of glazing already present, particularly at this upper level, the proposal would not stand out as being an incongruous addition.
14. The proposed railings would be similar to others in the area and, consequently, would not look out of place. Therefore, the proposal as a whole would not have a harmful effect on the character and appearance of the area or the setting of the CA.
15. Accordingly, the proposal would be in accordance with policies CD1, CD2, CD10, CD12 and CD15 of the Local Plan, which collectively seek to ensure that developments respect the existing context, character and appearance of the area, that roof alterations are sympathetic to the form and character of the building and protect views that contribute to the character and quality of the area.

Conclusion and Recommendation

16. Although the proposal would not harm the character and appearance of the area or the CA, I have found harm to the living conditions of neighbouring occupants. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

L McKay

INSPECTOR

¹ Paragraph: 013 Reference ID: 18a-013-20190723