
Appeal Decision

Site visit made on 23 September 2019

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 October 2019

Appeal Ref: APP/X5990/W/19/3228327

Alexander House, 85 Frampton Street, London NW8 8NQ

- 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 Kenlyn Ltd against the decision of City of Westminster Council.
 - The application Ref 18/08324, dated 28 September 2018, was refused by notice dated 9 November 2018.
 - The development proposed is the construction of an extension at 5th floor level to create 1No. 3-Bed 6-Person flat.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are the effects of the proposal on the character and appearance of the surrounding area and the effects on neighbours in relation to sunlight/daylight and noise.

Reasons

Character and Appearance

4. The appeal site accommodates a 5 storey building said to date from the 1980s but recently subjected to alterations. The building displays a clear and coherent design wherein the ground floor is clad in blue bricks, the upper floors are in a rendered façade with a regular fenestration pattern; the top floor is recessed, is clad in zinc and has a flat roof. The building is not listed and is not located within a conservation area but displays a pleasing and well-balanced design.
5. The proposal would add an additional flat above the existing roof level. It would contain pitched sides on some elevations and would be centred on the northern side of the building. The proposed extension would be clearly visible within the street-scene given the prominence of the site at the end of 2 roads and given the long views available of it.

6. Within these views I consider that the proposal would appear visually awkward and it would significantly un-balance the existing composition of the building. The proposed pitched elements would not be reflective of any element within the existing design and it would unacceptably disrupt the careful design of the existing building. I have taken account of the Council's comments relating to non-designated heritage assets within the area. I note that the appellant disagrees with the presence of any such assets but the NPPF defines them as assets identified by the local planning authority. Whilst I do not have an extensive justification for the Council considering this to be the case, some of the surrounding buildings do have some design merit and I have taken this into account in terms of the character and appearance of the area. As a result of my findings, the proposal is contrary to Policies S25 and S28 of Westminster's City Plan and Policies ENV 6, ENV 7 and ENV 13 of the Unitary Development Plan.

Effects on neighbours

7. The Council indicates that an assessment of the effects of the proposal on daylighting and sunlight should have been submitted and that without such an assessment the effects of the proposal cannot be judged. The need for such an assessment appears to arise from an alleged breach of a 25 degree line from neighbouring properties, with reference to guidance issued by the BRE.
8. The appellant points out that there is no breach of a 25 degree line; the existing building intrudes slightly within such a line and the proposal falls behind that. Additionally, it would appear to me that the drawing that relates to balconies and windows on 65 Penfold Street may display some ambiguity as the proposal does not sit opposite this window but on a different plain and so there would appear to be no actual breach in relation to the upper floor flat on the neighbouring site. The appellant appears to confirm this in the final comments. However, my attention has also been drawn by the Council to the appellant's representative's comments in identifying some level of effect on neighbours and I have taken this into account. In my judgement the effects in relation to sunlight and daylight would be insufficient to dismiss the appeal.
9. In relation to noise, the Council indicates that no assessment is submitted and that it is possible that the proposed mechanical plant could give rise to disturbance. I note that the previous permission for this site includes a condition which requires submission, approval and implementation of a suitable scheme. The Council is concerned that simply imposing a similar condition could place them in the position of having to accept a scheme, when they have insufficient information to judge whether such a scheme could be acceptable in principle.
10. Whilst I accept that some level of judgement needs to be made I do not consider it necessary in this case to require the appellant to submit an additional noise assessment. I am confident that the scale of the proposal and the apparent satisfactory submissions in relation to a previous scheme means that this can be suitably dealt with by a condition.

Conclusions

11. I have taken account of the fact that the proposal would result in an additional dwelling in an accessible location. However, this does not outweigh the harmful effect that I have identified in relation to the effects of the proposal on

the character and appearance of the area, contrary to the policies set out above. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR