
Appeal Decision

Site visit made on 30 November 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2020

Appeal Ref: APP/K5030/W/19/3235626

Nos 8-9 and 13, Well Court, London EC4M 9DN

- 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 Saresco International Ltd. against the decision of the City of London Corporation.
 - The application Ref 18/00033/FULL, dated 12 January 2018, was refused by notice dated 25 February 2019.
 - The development proposed is the extension of the existing building to provide a proposed fourth, fifth and sixth floor of office (Class B1) floorspace plus removal of existing plant at fourth floor level, installation of plant and plant enclosures at sixth floor and roof level, a terrace at roof level and cycle parking at ground floor level (436sq.m GIA).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of neighbours to the site.

Procedural Matter

3. Following my initial site visit on the 30 November 2019 I returned to the site to see from the perspective of some of the neighbouring apartments, which helped inform my decision. I undertook this visit on the 9 March 2020.

Reasons

4. The proposal is for extensions to an existing building within a densely built up area of central London for a proposed fourth, fifth and sixth floor of office (Class B1) floorspace. The proposal includes removal of existing rooftop plant, with new plant equipment and enclosures to the top of the taller building.
5. To the north and west of the site is 12 Well Court. This is a seven storey mainly residential building comprising of 8 apartments. Objections were received from occupants of some of these apartments, which included concerns with regard to loss of light due to the increase in height of the site building as proposed.
6. Local Plan Policy DM10.7 (Daylight and Sunlight) states that development which would reduce noticeably the daylight and sunlight available to nearby dwellings to unacceptable levels, taking account of the Building Research

Establishment's (BRE) guidelines, should be resisted. However, the supporting text to this policy states that ideal daylight and sunlight conditions may not be practicable in densely developed city centre locations.

7. The appeal is accompanied by a Daylight and Sunlight Report (Revision G) for the Proposed Development (by Malcolm Hollis) which is focussed on the impact to No 12 Well Court. This includes various measurements such as vertical sky component (VSC), the Daylight Distribution Test (DD) and the Average Daylight Factor test (ADF), for example. This report was based on amended plans which were submitted to lessen the loss of light impact to No 12. This has been supplemented by the letter dated 7 August 2019 from Malcolm Hollis LLP, which provides a statement with more detail as to the effects of the development on light levels in the apartments at 12 Well Court.
8. The detailed sunlight and daylight tests, as set out in the appellant's documentation, provides a thorough assessment of this issue. It is clear from this evidence that the proposal would reduce light to some of the rooms within the apartments at No 12 Well Court, some below the BRE standards. However, the reductions in daylight and/or sunlight, when using the aforementioned tests, are stated to be minor or negligible in many cases. I also note that some of the rooms adversely affected are stated to be bedrooms, which the BRE allows for less natural light to be acceptable.
9. A neighbour to the site has commissioned a review into the light impact of the proposed development - Daylight & Sunlight Impact Review (MES Building Solutions). This document suggests from BRE comments that there is an unequal need for daylight between the appeal site and No 12 Well Court, as the appeal site comprises offices whereas all above ground floor in No 12 are apartments. I would agree that the need for good levels of natural light would be of more importance for residents rather than office workers, in my opinion. I have therefore focussed primarily on the existing versus proposed methodology, rather than use of the mirror image technique.
10. Furthermore, the MES document highlights that the Malcolm Hollis assessment was based on incorrect layout plans. The MES document has included the plans of No 12 'as built', which clearly differs in several places from the planning application plans used by Malcolm Hollis. Indeed, the Malcolm Hollis assessment includes reference to the plans used as a limitation. As it transpires, the plans used were not wholly accurate as to the actual layout of the neighbouring apartments.
11. Therefore, whilst reviewed and agreed by the BRE, I cannot be certain that the Malcolm Hollis LLP conclusions are fully accurate in their assessment of the impacts of the development, particularly in relation to the daylight distribution results.
12. It may be that quite often these assessments are not based on actual neighbouring internal layouts, but in this case, there is evidence that suggests the layouts used are not fully accurate and this would have some bearing on the results.
13. An additional response from Malcolm Hollis has stated that the differences between these plans are not fundamental and there would be similar outcomes in terms of the DD results. However, even if the differences in the Malcolm Hollis assessment results would not vary significantly if based on the 'as-built'

plans, it could still make a potentially important difference in the outcome of the assessment. The accuracy of the assessment is particularly important as it is clear that some of the windows and rooms they serve would have day and sun light reduced when they already have limited light. If an assessment were based on the apartments as built, I cannot be certain that the results would not show potentially greater adverse impacts to light levels to a degree that different overall conclusions would be reached as to the level of impact.

14. Having been into some of the apartments at No 12 Well Court I have seen for myself that, especially at lower levels, the light received is limited through their habitable room windows. I also consider that as a result of this proposed development any further loss would likely be particularly noticeable and would have an adverse impact to living conditions to occupants. It is suggested by the appellants that the impact of the development to neighbour living conditions would be minor adverse or negligible. However, in my view the impact to these neighbours' living conditions through loss of light would be more significant than this. Furthermore, whilst the appellant states such impact would be minor, some of the Malcolm Hollis LLP conclusions which the appellant has used are undermined due to the use of the inaccurate floor plans of the adjacent apartments.
15. As stated above, it is recognised that this is a densely built up city centre location. The BRE recommends that a flexible approach is taken to the numeric targets for daylight and sunlight in such circumstances. This is reflected in policy DM10.7. To my mind, it is reasonable that in such built up urban areas, where there are many tall buildings, more flexibility should be allowed when considering daylight and sunlight impacts. However, even with this flexibility and taking into account the reduced impact with the amended proposals, I am of the opinion that the development would have a significant and unreasonable level of harm to living conditions of some of the neighbouring occupants at 12 Well Court.
16. It may be that the light to many windows in 12 Well Court would not be noticeably affected by the proposed development but, based on my site visits and the information before me, for some residents the light to some habitable rooms will be adversely affected to a significant and very noticeable degree. The submitted evidence, for the reasons explained above, does not sufficiently convince me that the impact to light levels would be at a minor or negligible level only in this city centre environment.
17. As such, the proposal conflicts with policies DM10.7 and DM21.3 of the City of London Local Plan January 2015. These policies seek to, among other things, resist development that would noticeably reduce daylight and sunlight available to nearby dwellings and to protect the amenities of existing residents.

Other Matters

18. The site is within Bow Lane Conservation Area with listed buildings near to the site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) is relevant to this appeal as it requires special regard as to whether to grant planning permission for development which affects a listed building or its setting. Also, Section 72(1) of this Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions. In this case, the Council did not find that the proposal would detract from the

character of the appeal building, the wider character and appearance of Bow Lane Conservation Area, or the setting of nearby listed buildings. From the information and evidence before me, considering the design and appearance of the proposal, I have no reason to come to a different view and the design appears suitable for its context.

19. The Council has state that their last Housing Monitoring Report demonstrates there is sufficient supply to meet the 5 year requirement, plus a 20% buffer. However, the Council acknowledged that under the February 2020 Housing Delivery Test results it showed housing delivery was assessed at 32% of need. On this basis the National Planning Policy Framework (the Framework) sets out that decisions should apply a presumption in favour of sustainable development and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
20. I understand that The City Corporation is currently in discussion with MHCLG over the results of the Housing Delivery Test and is seeking an amendment to the Test results to account for other sites, but currently I only have the figures within the Housing Delivery Test before me.
21. In the context of the development plan I have found that the proposed development would be contrary to policies DM10.7 and DM21.3 of the City of London Local Plan January 2015. For this appeal, I have found this policy to be generally consistent with the relevant aims of the Framework. The Framework requires that development should include a high standard of amenity for existing and future users. I would regard the proposal does not accord fully with the Framework on the basis of the harm I have identified.
22. I recognise the benefit of providing additional office space of the scale proposed in this central London location and the economic benefits that are associated with this, and also the construction process. The development may also improve the appearance of Well Court. The additional floors on the existing building would also be an efficient use of an existing site. Given the scale of the development I would give this modest weight.
23. There was no objection from the Planning Authority with regards overlooking for example, with the reason for refusal relating only to overshadowing of the adjacent flats. However, no objection on any other issues is a neutral factor and does not weight in favour for the development.
24. The decision by the Planning Committee to refuse the planning application was against the recommendation of the Planning Officers, however, this is their right to do so and therefore this has not had a bearing on my decision.
25. Considering all the points above, including the benefits identified, the harm to the living conditions of neighbours would be significant and as a result sustainable development would not be fully achieved. The impact on the wellbeing and amenity of these existing residents would be substantial in the level of harm. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, even if the tilted balance is engaged as the Housing Delivery Test results advise, the proposal would not be a sustainable or acceptable form of development.

Conclusion

26. For the reasons given above and taking into account all evidence, I conclude that the appeal should be dismissed.

S. Rennie

INSPECTOR