



Appeal Decision

Site visit made on 19 August 2020

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2020

Appeal Ref: APP/X5990/D/20/3249619

51 Huntsworth Mews, London NW1 6DB

- 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 Mr Ben Redding against the decision of City of Westminster Council.
 - The application Ref 19/05322/FULL, dated 9 July 2019, was refused by notice dated 3 January 2020.
 - The development proposed is erection of a mansard roof and alterations to front elevation in connection with conversion of garage into habitable accommodation and replacement of existing garage door with a new timber framed window with timber panel below.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal was submitted with a Daylight and Sunlight Report, dated March 2020, which was not available at the time of the Council's decision. The appeal process will normally only consider the documents and plans which were put before and considered by the Council. I have not been made aware of any change in circumstances that would justify submission of this new information, which furthermore has not been consulted upon. As such, I have not accepted the report or taken it into account in my decision.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of No 24 Linhope Street, with particular regard to outlook and loss of light.

Reasons

4. At the time of my site visit, the roof of the appeal site had been removed, and scaffolding and sheeting erected. Prior to this, the outlook from the rear upper level windows and roof terrace of No 24 would have been open, with views across the top of the roof of the appeal dwelling. The proposed roof would introduce a vertical wall and window to the rear of the appeal site, the effect of which would be to significantly foreshorten the existing outlook from No 24.
5. In doing so, when seen along with the existing high-rise building to the immediate north, this would result in two of the three boundaries to the rear of No 24 being dominated by built forms. The proposed wall and window would be very close to the rear windows of No 24, and just some one metre from the mutual rear boundary. At such proximity, a significant increase in the sense of

enclosure would be experienced at the second floor and roof terrace levels of No 24. Whilst lower levels would not experience this to a harmful degree, due to their existing enclosure within the light well, overall, the proposal would result in significant harm to the outlook from No 24.

6. Planning permission was previously granted in 2018 for what is described as a traditional rear mansard roof with slope of some 70 degrees, but I have not been provided with full details of that scheme or determination process. Even so, at this proximity, the presence of a sloping mansard roof would be less dominating than that of the proposed vertical wall, again as experienced at second floor and roof terrace levels. Consequently, this fallback position would be less harmful than the harm that would be caused by the current proposal.
7. Whilst the increase in the sense of enclosure caused by the current proposal over and above the approved scheme is claimed to be minor, it is nonetheless, to my mind, an unacceptable additional harm. A reasonable reading of ENV13 of the City of Westminster Unitary Development Plan (2007) (UDP) could not conclude that the policy permits any minor or immaterial increase in enclosure. Rather, any proposed increase in the sense of enclosure should not pass the tipping point at which it becomes significant, as is the case here.
8. Daylight and sunlight to the lower ground, ground, and first floor rear windows of No 24 are currently provided by means of a deep and narrow light well serving the external patio area. From my visit to No 24 it was evident that the habitable rooms facing onto this lightwell are already heavily restricted in terms of both daylight and sunlight by the surrounding light well walls, as well as a number being north facing. This being the case, the set-back of the proposed roof wall of some one metre from the mutual rear boundary ensures that its impact on daylight and sunlight reaching into the light well will be limited. Even were the proposal to breach the 25-degree guidance, this would not be more than marginal, again with limited impacts given the existing constraints on light levels. Furthermore, the difference between the proposed roof wall and the fallback position of the approved sloping mansard roof is, to my mind, likely to have an imperceptible effect on light levels to these windows.
9. Although I conclude that the proposed development would not have an adverse effect on the living conditions of occupants of No 24 with regard to loss of light, it would have a significant adverse effect with particular regard to outlook. Overall, the proposal conflicts with policy S29 of the Westminster City Plan (2016) and policy ENV13 of the UDP, which together require development to not result in an unacceptable material loss of residential amenity.

Other matters

10. The effect of the proposal on the Dorset Square Conservation Area is not of concern to the Council, and I see no evidence to persuade me that the proposal would not preserve the character and appearance of the conservation area.

Conclusion

11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Patrick Hanna

INSPECTOR