



Appeal Decision

Site Visit made on 23 November 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2022

Appeal Ref: APP/X5990/W/20/3257548

Sinclair Court, 199-205 Edgware Road, London, W2 1ES

- 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 Daniel Sacerdoti against the decision of City of Westminster Council.
 - The application Ref 19/10097/FULL, dated 24 December 2019, was refused by notice dated 21 July 2020.
 - The development proposed is erection of five storey infill extension; partial demolition and rebuilding of building; alterations at ground floor level to extend existing retail unit; alterations to external fenestration; change of use of first floor language school from D1 to C3; all in association with the use as 7 additional residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Between the determination of the planning application and the appeal coming before me, a new City Plan¹ and a revised Framework² were published. The Council has subsequently indicated that Policies 7, 33 and 38 of the new City Plan are relevant to this appeal. The views of the appellant have been sought on these.

Main Issue

3. The effect of the proposal on the living conditions of occupiers at St Michaels Street and 1-2 Star Street with particular reference to outlook and light.

Reasons

4. The proposed extension would be constructed within a rear yard enclosed by the buildings facing St Michael Street and Edgware Road. The yard is overlooked by windows of residential flats at St Michael's Street and 1-2 Star Street. Although the views from those windows would primarily be of the inward facing elevations of the surrounding 4-5 storey buildings, the intervening undeveloped space nevertheless provides occupiers with a sense of relief from the scale of those structures.
5. The flank wall of the proposal would be very close to the rear facing windows and external balconies of the upper floor flats at Nos 82 and 84 St Michael's Road (Nos 82 and 84). Although part of the flank wall would be stepped away to a

¹ City Plan, 2019-2040, adopted April 2021, City of Westminster

² National Planning Policy Framework (2021)

degree the overall height and immediacy of this elevation would appear substantial. Because of its scale and closeness to the fenestration/balconies at No 82 and 84 the overall impact of the proposal would be oppressive and overpowering. As well as being visually intrusive the outlook of occupiers from within the adjacent habitable rooms would be significantly impaired such that their living conditions would be harmed.

6. The appellant indicates that the outlook from some of those windows is already reduced by overhanging balconies. However, these project a modest degree out from the building and would not have the same degree of enclosure upon rooms served by the windows given the proposal's greater mass and verticality.
7. The appellant's statement of case points out that there is very little exposure to the sky from the rear windows of Nos 82 and 84 given the presence of the surrounding buildings and the overhanging balconies. Nonetheless this does not make the proposal acceptable, nor does it remove my concerns regarding its significant enclosing effect on neighbouring occupiers.
8. The Council consider that there would be an unacceptable loss of light to a kitchen window to 1-2 Star Street, and a bedroom and kitchen window at No 82. In respect of those windows the appellant's Daylight and Sunlight Report indicates that they are already experiencing low levels of daylight exposure measured in terms of the Vertical Sky Component (VSC), given the presence of buildings and projections above windows. Moreover, those windows all fall short of the 'very good levels of daylight' standard outlined in the BRE guidance.
9. The proposal would result in a VSC reduction to those windows from 9% to 6%, 4.9% to 2.4% and 2.6% to 1.2%. Whilst in percentage terms these reductions would be significant, there would not be an unacceptable loss to the daylight distribution in the rooms as a result of the proposal. Consequently, there would be no harm to the occupiers of those flats.
10. The Council indicates that the proposal fails the tests set out in the BRE guidance. However, the document is not adopted, nor is it part of the City Plan policies submitted in evidence. Whilst it is acknowledged that the guidance can be an effective tool for assessing daylight the proposal would not compound existing levels to the extent that they would be noticeable or unacceptable to the neighbouring occupiers.
11. In conclusion, I have not found the proposal's effect on light received by nearby occupiers to be unacceptable. However, it would have a harmful effect on the living conditions of Nos 82 and 84 St Michael's Street, with particular reference to outlook. The scheme would fail to accord with Policy 7, 33 and 38 of the City Plan, where they require proposals to prevent unacceptable impacts and make sure people's quality of life, health and well being is not harmed by the design of new developments.

RE Jones

INSPECTOR