



Appeal Decision

Site visit made on 8 March 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th April 2023

Appeal Ref: APP/X5990/W/22/3309525

153 Shirland Road, Maida Vale, London W9 2EP

- 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 Russell Teasdale against the decision of the Council of the London Borough of the City of Westminster.
 - The application Ref 21/08087/FULL, dated 11 November 2021, was refused by notice dated 15 August 2022.
 - The development proposed is described as the erection of 2 storey extension to the rear of the existing closet wing, extending from lower ground floor level to raised ground floor level to enlarge existing apartments on both levels, improving their habitable spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development in the banner heading is taken from the planning application form. However, it does not include the enlargement of the existing lower ground floor extension. As such, a more accurate description of the proposed development is included in the Council's decision notice as 'Erection of two storey rear extension to lower ground and ground floor levels to closet wing; and enlarging existing lower ground floor infill extension at lower ground floor level; all in association with enlargement of Flats A and B'. I have proceeded accordingly and consider that no party has been prejudiced by me doing so.

Main Issues

3. The main issues are the effect of the proposal on a) the character and appearance of the area; b) flood risk; and c) the living conditions of neighbouring occupiers, with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site forms part of a large terraced building. The scale, design and layout of properties along the host terrace is largely consistent, with closet wings of similar projection and design. The rear closet wings spanning four levels are a strikingly prominent feature and create a dominant and pleasing rhythm. This therefore gives the rear of the wider terrace a strong, uniform character. There is one exception at the pair of properties at 157 and 159 Shirland Road, which I shall return to.

5. The proposed two storey extension would project beyond the characteristic closet wing. Its height and footprint would result in considerable additional massing. The proposed extension to the existing infill extension to the side would further erode the space to the side of the closet wing. Collectively, both elements of the proposal would distract from and compete with the original distinctive form and proportions of the host building and would significantly disrupt the established rhythm to the rear of the wider terrace.
6. As noted, an exception to the consistent rhythm to the rear of the host terrace occurs at Nos 157 and 159. I acknowledge that permission was granted for elements of those extensions and that the policy requirements at that time were similar to now. However, I note that the extension to the closet wing at No 159 appears to have been unauthorised. This being the context, which is not similar to the appeal site, permission was then granted for the alterations to No 157 to reflect the alterations on the attached property. Moreover, these extensions are not directly comparable to the appeal proposal as they are of a reduced overall projection and massing.
7. Therefore, even though they are within close proximity to the appeal site, these examples do not justify the proposed development as the circumstances are not directly comparable. Furthermore, I observed that the additions to Nos 157 and 159 noticeably interrupt the uniform closet wing layout thus they do not serve to justify further harmful erosion to the characteristics of the terrace.
8. I note that there is a large tree in the rear garden of the appeal site, which makes a positive contribution to the townscape. Based on my observations, whilst the proposal would extend into the rear garden by a considerable amount, I consider that it would not come so close so as to result in harm to or loss of the tree. I can therefore see no reason why an appropriately worded condition could not satisfactorily mitigate against any harm during construction, should permission be forthcoming.
9. Notwithstanding this matter, the proposal would nevertheless result in harm to the character and appearance of the area and thus would conflict with Policies 34, 38 and 40 of the City of Westminster City Plan 2019-2040 (April 2021) (the City Plan) which collectively seek to ensure that developments respond positively to their context and have regard to the preservation and enhancement of trees.

Flood risk

10. The appeal site is located within the West Kilburn Surface Water Floodrisk Hotspot. Policy 35 of the City Plan makes it clear that a site-specific Flood Risk Assessment (FRA) must be submitted for all developments within a Surface Water Flood Risk Hotspot.
11. No such FRA has been submitted in support of the proposed development. I acknowledge that the appellant is happy to accept a condition requiring a FRA to be submitted and approved prior to commencement of development, should approval be forthcoming. However, this information is required upfront to ensure appropriate mitigation could be achieved, where required.
12. Consequently, the proposal fails to demonstrate that there is no impact of flood risk, thus it conflicts with Policy 35 of the City Plan which seeks to ensure that developments are safe for their lifetime from the risk of flooding.

Living conditions

13. The appeal building and those adjacent are of a considerable height, with living accommodation from the lower ground floor to four floors above. This, along with the closet wing design, results in the outlook and light from rear facing windows in the main elevation at the ground floor levels already being dominated and restricted by the bulky mass of built form.
14. The proposed projection of the side infill extension would result in a greater length of built form which would be evident from adjacent windows at lower ground floor level of 151 Shirland Road. Whilst it would be no taller than the existing, by virtue of its increased projection, along with the existing large closet wing to that property, the proposal would create a tunnelling effect, resulting in neighbouring occupiers suffering an overwhelming sense of enclosure.
15. The proposed extension to the closet wing of the host building would be within close proximity to windows serving habitable rooms on the lower and upper ground floors of 155 Shirland Road. Due to its siting, projection and overall bulk, this element of the proposal would result in a considerable loss of daylight and increased sense of enclosure to the nearest rooms at No 155.
16. Further, I observed that occupiers of No 155 are also subjected to the infill and closet wing extension at No 157, referred to above. This has considerably impacted on light to and outlook from the rooms nearest to No 157. Therefore, as the appeal proposal would impact upon the remaining windows within No 155 which currently provide good levels of light and satisfactory outlook, the proposal would subsequently significantly diminish the living conditions of occupiers of No 155.
17. I acknowledge that the development plan does not make reference to a 45 degree rule. Whilst not decisive, this test is one method which can assist in assessing the effect of a proposal on matters such as outlook and light.
18. Therefore, the proposed development would harm the living conditions of neighbouring occupiers with particular regard to outlook and light. It would therefore conflict with Policies 7 and 38 of the City Plan which aim to ensure that developments ensure a good standard of amenity for existing occupiers by preventing unacceptable impacts in terms of daylight and sunlight and sense of enclosure, amongst others.

Conclusion

19. The proposal conflicts with the development plan when taken as a whole and there are no other considerations which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR