



Appeal Decision

Site visit made on 18 July 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/X5990/W/22/3312844

55 Belgrave Gardens, London NW8 0RE

- 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 Vladimir Cara against the decision of the City of Westminster Council.
 - The application Ref 22/02057/FULL, dated 25 March 2022, was refused by notice dated 14 September 2022.
 - The development proposed is the demolition of existing single family dwelling and construction of new 3 storey house over basement.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant's full name was clarified during the course of the appeal which I have utilised in this decision.

Main Issues

3. The main issues are (i) the effect of the proposed development on the living conditions of neighbouring occupiers of Pamela Hay House (49 Belgrave Gardens) with regard to outlook; and, (ii) whether the proposal would be acceptable in respect of flood risk and surface water drainage.

Reasons

Living Conditions

4. The appeal site comprises of a detached dwelling which is set back from the road, behind Pamela Hay House (49 Belgrave Gardens). This neighbouring property contains a total of 10 flats across four storeys. A number of these have windows that face the appeal site.
5. The appellant has set out that the appeal scheme has been carefully designed and is set further from the boundary with Pamela Hay House than the existing dwelling it would replace. This would provide an increased separation between the proposed building and this neighbouring property, with the development also replacing a dark grey cement wall with lighter brickwork. Despite these features of the scheme, and a slanted wall at second floor level, the proposed dwelling would extend further along the length of the boundary with Pamela Hay House. Whilst I note the presence of the boundary wall, the replacement dwelling would rise above it and appear considerably wider than the existing dwelling when seen from a number of windows to the flats at lower ground floor and ground floor levels of Pamela Hay House.

6. The appellant considers the level of impact would be typical of a densely developed area. In this case, despite the limited spacing between buildings, the proposal would obscure the outlook across the appeal site and of parts of the sky that are visible from some of the neighbouring windows. This would be particularly evident from those windows around the neighbouring amenity (courtyard) area to Pamela Hay House at lower ground floor and ground floor level where the development would result in an increased sense of enclosure. Whilst there is no 'right to a view', the increased size of the replacement dwelling and its relationship with Pamela Hay House would result in it being visually imposing and oppressive, resulting in an overbearing impact.
7. I note the concerns relating to the impact on the neighbouring occupiers of No. 47 Belgrave Gardens. However, given the offset positioning of this neighbouring property relative to the appeal site, I do not consider that the proposal would have a harmful overbearing impact.
8. Nevertheless, I conclude that the development would have an unacceptable adverse impact on the living conditions of neighbouring occupiers of Pamela Hay House with regard to outlook. As such, it would be contrary to Policies 7 and 38 (C) of the City Plan 2019-2040 (City Plan), which seek, amongst other matters, for development to be neighbourly by preventing unacceptable impacts including in terms of the sense of enclosure.

Flood Risk and Surface Water Drainage

9. The appeal development does not propose any soft landscaping in the ground. Whilst it may be possible to replace the proposed planting in pots with ground planting, and the Council has set out the advantages of doing so, the provision of the sedum roof over the majority of the roof area as well as permeable paving will reduce the rate of runoff from the site by over 50%.
10. Although the Council make a general reference to other properties that have added basements in the St John's Wood area, the appellant's evidence references trial holes that have been undertaken to identify ground conditions which have found infiltration is not suitable on the appeal site. The provision of 1.2m soil, including a drainage layer would not provide any flood risk benefit over the permeable paving that is proposed.
11. The appellant has also set out why greenfield run off rates cannot be achieved on this particular site and this is not disputed by the Council. The Council do not however consider that all opportunities to minimise site run-off have been taken but the scheme would slow the rate of discharge of runoff from the site and attenuate surface water for longer periods, including from the ceramic boards which would run-off to the permeable paving. This would significantly reduce the risk of flooding on a site that currently comprises largely of impermeable hardstanding material, and I consider that the proposed development would incorporate all reasonable measures to minimise site run-off.
12. The proposed basement would have a height of 3m, which would be higher than the 2.7m referenced in the supporting text to Policy 45 of the City Plan. This however is referenced as an approximate floor to ceiling height and is said to represent the most appropriate form of development. As such, it does not preclude basements of other heights and as the form of basement development proposed would be no more than one storey and only around 0.3m greater

than the referenced approximate height, I do not find it would have an excessive depth.

13. I therefore conclude that the proposed development would be acceptable in relation to flood risk and surface water drainage. As such, it would not be contrary to the aims of Policies 34, 35 and 45 of the City Plan, which seek, amongst other matters, for development to incorporate Sustainable Drainage Systems to alleviate and manage surface water flood risk.

Other Matters

14. There are no concerns with the principle of demolishing and replacing the existing building and the proposal would not give rise to any harmful impacts in relation to other living condition matters for neighbouring occupiers, such as in relation to noise or privacy. The development would also provide satisfactory living conditions for future occupants and preserve the character and appearance of the St John's Wood Conservation Area. These are however neutral matters and not ones which weigh in favour of the development.
15. The appellant has set out that pre-application advice was sought, and this informed the appeal application. This appeal follows the Council's formal decision, and I can confirm that I have dealt with it accordingly on its own merits.
16. I have considered all other matters raised, none would however alter my conclusions in relation to the main issues.

Conclusion

17. The proposal would better provide for the needs of a growing family and has been designed to reduce energy and water usage. These matters weigh in favour of the development, albeit this weight is moderately supporting given the proposal is for a single dwelling.
18. There would be no harm in relation to flood risk and surface water drainage. These and other referenced matters are however neutral considerations and not ones which weigh in favour of the development.
19. I have found that the proposed development would be harmful to the living conditions of the occupiers of neighbouring properties. This harm would be long lasting and would be contrary to the objectives of the National Planning Policy Framework. I ascribe this substantial weight. As such, the benefits of the proposal would not outweigh the identified harm.
20. I have found that the development would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Rafiq

INSPECTOR