



Appeal Decision

Site visit made on 17 July 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2024

Appeal Ref: APP/X5990/W/23/3325894

45-46 Adams Row, London W1K 2LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Forty Five Holdings Limited against the decision of City of Westminster Council.
 - The application Ref is 22/01319/FULL.
 - The development proposed is erection of a second floor and third floor mansard extension to form two new residential units (Class C3) at second and third floor levels. Alterations include installation of plant equipment and waste storage at rear ground floor and plant equipment at roof level.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal refers to the effect of the proposal on the people living at 47 – 48 Adams Row. As part of my site visit, I visited both 47 and 48 Adams Row as they are two separate properties. The Council's concerns are focussed on the effect of the proposal on the rear skylight. This serves 48 Adams Row and I have therefore considered the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the living conditions of the occupants of 48 Adams Row with regards to outlook; and,
 - the standard of residential accommodation with respect to amenity space.

Reasons

Living conditions of the occupants of 48 Adams Row

4. The appeal site consists of a two-storey building with garages on the ground floor and two residential units on the first floor. It is in a tightly knit context surrounded by taller buildings of varying height and scale. The appeal building is adjoined to 47 – 48 Adams Row (47 – 48) which is a three-storey building with residential accommodation on the upper floors. 48 Adams Row (No 48) is located on the first floor and 47 Adams Row (No 47) is located on the second floor. The rear elevation of the appeal building is set back from the rear elevation of 47 – 48.
5. There are no first-floor windows in the rear elevation of No 48 and the only outlook is from a large skylight to the dining room, which is adjoined to a

- kitchen. The existing outlook from the skylight is hindered due to the presence of the storey above and nearby taller buildings sited in close proximity.
6. No 47 has a roof terrace that is enclosed by railings and a wall that forms the shared boundary with the appeal site. Where the boundary wall is lower in height, this effectively creates a gap that allows for some limited outlook from the skylight between the buildings.
 7. The proposal seeks to increase the size of the appeal building on the first floor whilst also providing a new second floor and a third floor contained within a mansard roof, raising the height of the building to be taller than 47 – 48.
 8. The extensions would be built on the shared boundary with 47 – 48. Even though the extensions would not extend past the full depth of the skylight at No. 48, the proposed increase in the depth of the appeal building would result in the existing gap in the boundary wall being completely infilled by the brick wall of the extensions. The loss of this gap would diminish the already limited outlook currently received which would unacceptably impact the quality of the living environment available to users of this room.
 9. Due to their close relationship, for the occupants of No 48, the outlook from the skylight would be towards the imposing presence of the increased height and bulk of the appeal building. Although the bulk of the extension at the third floor level would be somewhat reduced through the set-back design and slope of the mansard roof, this would do little to alleviate the enclosing effect because of how tall the appeal building would be along the boundary from the proposed extensions.
 10. The side elevation of The Biltmore Hotel can be seen from the skylight. However, it is some distance away from the skylight which reduces the extent to which it impacts the outlook. As the proposal would be much closer to the skylight than the hotel is, this existing relationship is not directly comparable.
 11. The analysis from the Daylight and Sunlight¹ study demonstrates that the impact of the proposal on the daylight and sunlight received to the skylight would be within the relevant guidelines. However, this would not mitigate against the harm from the loss of outlook from the skylight, which is different to daylight and sunlight. Even if the proposal adheres to the 45-degree rule, this measurement is primarily used to assess light, and this was not a reason for the refusal. Furthermore, my attention has not been drawn to any reference to this measurement in the Council's policies or guidelines as a test for outlook or sense of enclosure impacts. This therefore does not weigh in support of the scheme.
 12. For these reasons, I conclude that the proposal would unduly harm the living conditions of the occupants of No 48 with regards to outlook. The proposal would therefore conflict with Policies 7 and 38(C) of the City Plan 2019-2040, Adopted April 2021 (the City Plan). These policies amongst other things seek development that is neighbourly by preventing unacceptable impacts in terms of sense of enclosure and ensuring a good standard of amenity for existing occupiers.

¹ External Daylight and Sunlight Study date: 09.02.2023

Standard of residential accommodation

13. The existing flats within the appeal building each have an outdoor terrace. These outdoor areas would be lost through the extension of the first floor. The proposal would also provide two additional flats, each with no private amenity space.
14. Part (D) of Policy 12 of the City Plan requires all new-build homes to provide at least five square meters of private amenity space for each dwelling. Where it is not considered practicable or appropriate to provide amenity space the provision of communal external amenity space or provision of additional and/or higher quality public open space will be required.
15. Whilst the proposal would result in the loss of outdoor space, the existing flats are proposed to be enlarged and re-configured with the size of the living areas and bedrooms increased. I do not consider that the changes to these existing flats would amount to a 'new-build home' and the requirements of part (D) of Policy 12 would be applicable. Furthermore, this policy does not require existing outdoor space to be retained or re-provided. I therefore consider that part (D) of Policy 12 can only be applied to the additional proposed residential units.
16. The rear of the appeal building is sandwiched between the side elevation of 47 – 48 and The Baltimore Hotel and is heavily overlooked from the windows of the surrounding buildings. Part (E) of Policy 12 sets out that where it is sufficiently demonstrated that it is not practicable or appropriate to provide any type of external amenity space, additional internal living space equivalent to the external requirement set out in clause D will be required.
17. Although no private amenity space would be provided, the internal floor area of the proposed additional units would exceed the minimum space standards in excess of 10 square meters. As a result of the size of the internal living space that would be provided, the additional residential units would therefore meet the requirements set out in part (D) of Policy 12. I am also mindful that the appeal site is in short walking distance to several public parks.
18. I therefore conclude the standard of residential accommodation with respect to amenity space would be acceptable and complies with Policy 12(D) of the City Plan, the purpose of which has been set out above.

Other Matters

19. The appeal site is located in the Mayfair Conservation Area (the CA). Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The CA covers a large area and is generally characterised by a mix of high quality buildings in a variety of uses which vary in character. The height of the appeal building is not one of the defining features of its character.
20. The proposal would have an acceptable impact on the character of the appeal building because of the proposed design of the extensions, the use of appropriate materials and the discrete location of the plant equipment. It would also result in the replacement of the existing windows and garage doors which would be an improvement. Whilst the proposal would result in the appeal building being taller than No 47, the buildings do not form a pair. The character

and appearance of the CA as a whole would therefore be preserved. I note that the Council raised no objections in this regard either.

21. The appellant has drawn my attention to a draft committee report and draft decision notice in relation to a similar proposal. My assessment of this appeal is against the formal decision notice of the Council in relation to the refused planning application. This does therefore not weigh in support of the proposal.
22. A lack of objection from No 47 is not a determinative factor and would not alter my conclusions on the planning merits of the proposal.

Planning Balance

23. Whilst I have found that the proposal would provide an acceptable standard of accommodation, it would harm the living conditions of the occupants of No. 48 with regards to loss of outlook. It therefore conflicts with the development plan taken as a whole.
24. The appeal site is within Flood Zone 1 and would have a low probability of flooding. The proposal would improve the existing flats and provide two additional homes in an accessible and sustainable location, close to nearby bus stops and Bond Street and Oxford Circus Underground Stations. This would contribute to the overall supply of housing in the area. It would also be supported by parts of the Framework in meeting the need for homes and would support the government's objective of significantly boosting the supply of homes. Given the quantum of development under consideration, I give these benefits limited weight.
25. There would also be benefits arising from the construction phase and future occupiers would bring some trade to nearby shops and services. Nevertheless, given the quantum of development, these would amount to limited social and economic benefits in favour of the appeal scheme.
26. A letter of support has highlighted noise nuisance problems with the existing first-floor terrace. As the proposal would build over the terraces, this would remove this problem and therefore weighs in support of the proposal.
27. The proposal would include a sedum roof. I have not been provided with the specific biodiversity benefits that this would achieve. The sedum roof would soften the appearance of the roof, however, given that the Council were satisfied with the mansard roof in design terms, this carries limited weight.
28. Several letters of support welcomed the design of the proposal. The Council also raised no objections to the proposal on design or conservation grounds and it would preserve the character and appearance of the CA. The size of the flats would also comply with the minimum space standards. However, these matters are of neutral weight as compliance with relevant local planning policies and legislation on these matters would be required for all proposals.
29. Although the Framework promotes an effective use of land in meeting the need for homes, it is clear in setting out that development should create places with a high standard of amenity for existing users.
30. I understand that the appellant sought to work with the Council and has raised concerns regarding how the Council handled the planning application, however,

this is a neutral consideration so would neither weigh in favour nor against the appeal scheme.

31. Taken together, the limited benefits of the development would not outweigh the harm I have identified including the conflict with the development plan.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

L Reid

INSPECTOR