



Appeal Decision

Site visit made on 5 February 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2025

Appeal Ref: APP/X5990/W/24/3354778

Basement Store at Caroline House, 135 Bayswater Road, London W2 4RG

- 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 Mr Danny Ngo against the decision of City of Westminster Council.
 - The application Ref is 23/08928/FULL.
 - The development proposed is the change of use of existing basement storeroom to a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the Government has issued a revised National Planning Policy Framework (the Framework). In relation to the main issues in this appeal the advice of the Framework has not materially changed. As such there would be no prejudice in my considering the appeal in light of the revised Framework.

Main Issues

3. The main issues are:
 - Whether future occupiers of the proposed unit would experience satisfactory living conditions, with particular regard to daylight, outlook, and ventilation, and
 - The effect of the proposal on the living conditions of the occupiers of 56 and 57 Caroline House, with particular regard to overlooking.

Reasons

Living conditions – future occupiers

4. The proposed unit would be positioned below ground level, to the basement at the appeal site. It would be served by a glazed entrance, containing the main access door as well as some windows. While there are other similar glazed elements to the adjacent unit, the glazing to the proposed unit would face an eight-storey wall at close proximity, having a separation distance of only approximately 5 metres.
5. While I note that there were comments received from the Environmental Health Officer advising that the area of this glazing should exceed 10% of the floor area of the living room area, and that this requirement would be exceeded, given the relationship of the windows to the wall opposite, together with the positioning

below ground level and severely hemmed in by other built development, I consider that there would be inadequate natural light reaching the proposed residential unit. There has been no updated light assessment submitted with the appeal that would convince me otherwise.

6. The positioning of the glazing, in such close proximity to a very tall built element would mean that the outlook from the unit would be directly towards a brick wall. There would be little, if any, views of the sky or any other feature. This would result in a substandard level of outlook for future occupiers.
7. The glazed area referred to above is the only area that would allow for the opening of windows and as a result the unit would lack any dual aspect, which would allow for ventilation to prevent overheating and to allow for an appropriate internal air quality. The appellant suggests that a mechanical ventilation system could be employed which could achieve ventilation from the adjacent shared courtyard. However, it is unclear if this would satisfactorily address the matter of overheating. It is contended that due to the subterranean nature of the unit, a fairly even temperature would be maintained year-round. However, there is no assessment or information to demonstrate this. As such, there is insufficient information to show that the lack of a dual aspect to the unit can be satisfactorily mitigated.
8. As a result, I find that future occupiers of the proposed unit would not experience satisfactory living conditions, with particular regard to daylight, outlook, and ventilation. The scheme therefore conflicts with policy 12 of the City of Westminster - City Plan (adopted April 2021) (the City Plan), insofar as it seeks to ensure that new housing provides a high-quality living environment. The scheme would also conflict with the living condition protection aims of the Framework.

Living conditions – existing occupiers

9. The glazed entrance area to the unit would be positioned at the same level, at 90 degrees to and directly alongside opening doors and glazed areas associated with Number 57 Caroline house (No 57), while it would also be directly opposite windows that serve Number 56 Caroline House (No 56).
10. The appellant asserts that the courtyard onto which both the existing units face and the proposed unit would also face, is a shared communal space and thus the addition of the new unit would not result in any material increase in overlooking. However, while the area is accessible to other residents, it would in my view be unlikely that there would be a substantial use of this area as a communal space. This is due to the contrived access to the space, as well as the below ground position together with the height of the enclosed features resulting in a less than attractive environment. The appellant has not submitted any information to demonstrate that this area is used in any regular or substantial way. As a result, the increased use of the area by residents accessing the new unit would result in an increased amount of overlooking of the doors and windows associated with No's 56 and 57.
11. In terms of No 57, the new glazed elements would be positioned directly alongside the existing doors and glazing of this existing unit. Given the extent of this new glazing, which would serve a living/dining/kitchen space, where most activity would occur within the new unit and it is likely that residents would spend a large amount of time, there would be an unacceptable and intrusive degree of overlooking into

No 57. There would also be direct overlooking towards windows that serve No 56 and this would be at close proximity also.

12. The appellant has put it to me that there is already overlooking of both Nos 56 and 57 from the elevated walkway above the units and photographs have been included attempting to demonstrate this. I saw at the time of my visit that there were indeed views from this area to the windows and units below. However, these are from an elevated position looking down to the windows and doors, which thereby somewhat limits the extent of views into the interior of the existing units. This would not be the case from the proposed unit, which would afford views into the existing units from the same level. Moreover, views from the walkway above are short-lived while people walk along it, it is unlikely that individuals would linger at this vantage point, whereas this would not be the case when residents are occupying the new unit.
13. I note the presence of some planting within the area fronting the units. However, this is limited and would do little to ameliorate the effect of overlooking. Furthermore, the addition of additional landscaping, as suggested by the appellant, would likely result in a more oppressive and uncomfortable environment to the courtyard and thus would not be desirable. I am also conscious that in densely populated urban environments that a degree of mutual overlooking is to be accepted. However, the degree of the loss of privacy that would occur in this case is beyond that which would normally occur and thus is not acceptable.
14. Accordingly, the proposal would be harmful to the living conditions of the occupiers of 56 and 57 Caroline House, with particular regard to overlooking. Thus, the development would conflict with policies 7 and 38 of the City Plan, insofar as they seek to ensure that development does not result in an unacceptable loss of privacy and result in a good standard of amenity for existing occupiers. The scheme would also conflict with the living condition protection aims of the Framework.

Other Matters

15. The appellant points to the Council failing to meet its annual target for the supply of new housing. However, the appellant has not suggested that this would result in the presumption in favour of sustainable development, as envisaged by paragraph 11 of the Framework being engaged and I find no reason to conclude that it is. Nonetheless, the contribution towards housing is a consideration. However, in this case the limited contribution of a single unit is not sufficient to outweigh the harms that I have identified.
16. The appellant draws my attention to what is contended to be a similar development, where some overlooking of existing windows was permitted. However, there are no details of the arrangement that was proposed, and approved, in that case. It is unlikely that the circumstances would be exactly the same as that which I am considering, and it has not been shown that they are. Therefore, this example does not lead me to find differently than I have above.

Conclusion

17. For the reasons given above, the appeal should be dismissed.

Martin Allen INSPECTOR