



Appeal Decision

Site visit made on 8 January 2026

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2026

Appeal Ref: APP/X5990/W/25/3374845

55 Belgrave Gardens, London NW8 0RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Vladimir Cara against the Council of the City of Westminster.
- The application Ref is 25/03136/FULL.
- The development proposed is demolition of existing family dwelling and construction of new 3 storey dwelling + basement.

Decision

1. The appeal is dismissed, and planning permission for the development proposed is refused.

Preliminary Matters

2. In January 2026, a reviewed version of Westminster's City Plan 2019-2040 (the City Plan) was adopted. This has replaced a version of Westminster's City Plan which was an adopted development plan document at the time the appeal was submitted. I must determine the appeal against the current development plan. Therefore, in my decision, I refer to policies within the City Plan.
3. Documents submitted late, beyond the final comments stage, are not normally accepted. However, exceptionally, late evidence may be accepted if there is a change in circumstances and it would be procedurally fair to take it into account. A consultation version of a Planning Obligations and Affordable Housing Supplementary Planning Document (the Emerging SPD) has been submitted to me as late evidence. It is relevant to the appeal since, as I explain below, matters relating to affordable housing are a main issue in the appeal.
4. Consultation on the Emerging SPD commenced on 12 January 2026 and is due to end on 20 February 2026. Therefore, the Emerging SPD is recent evidence which could not have been submitted within the normal timescales. Both main appeal parties have been given the opportunity to comment on the Emerging SPD. In such circumstances I consider it procedurally fair to accept the Emerging SPD as evidence, and I have had regard to it in making my decision. As necessary, I comment further on the Emerging SPD elsewhere in my decision.
5. The appeal site is situated within a conservation area, and listed buildings are located nearby. As a result, in making my decision, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Background and Main Issues

6. Following the submission of the appeal against non-determination, the Council has clarified the decision it would have taken on the application if it had been determined within the statutory time period. The Council would have refused the application, and the reasons why have been provided. These notional refusal reasons inform my main issues, which are:
- The effects of the development on the living conditions of occupiers within Pamela Hay House, with specific regard to their outlook;
 - Whether the development complies with the relevant development plan policies which relate to limiting energy use and waste, carbon emission minimisation and sustainable design principles; and
 - Whether the development is required to contribute towards the provision of affordable housing, and, if so, whether appropriate arrangements have been made.

Reasons

Living conditions

7. No 55 Belgrave Gardens (No 55) is a two-storey detached house. It is closely positioned to the rear of Pamela Hay House, a residential building containing flats. Pamela Hay House is served by a communal courtyard which is adjacent to a side elevation of No 55. Windows within different storeys of Pamela Hay House overlook this courtyard and face towards No 55.
8. The replacement house proposed is a further design iteration for the site's redevelopment. It follows, amongst other planning history, two refused planning applications and their related appeal dismissals¹. The Inspectors each found that unacceptably harmful effects on the outlook of occupiers within Pamela Hay House would arise from those developments.
9. The development now proposed would involve the replacement of the existing two-storey house with one that would be three-storey (excluding its basement level), that would be of much greater depth and, thereby, extend considerably further alongside Pamela Hay House. Therefore, and despite the efforts made to moderate its effects through the likes of elevation articulation and set-back, material choice and an evergreen living wall, the replacement house would, overall, be considerably taller and larger than the one it would replace, and it would remain closely positioned to windows within Pamela Hay House.
10. As a result, when viewed from some of the windows within Pamela Hay House, the development would form an imposing and oppressive presence, and occupiers' sense of enclosure would markedly increase. These effects would be most pronounced for the occupiers of the upper ground floor and first floor flats. At these levels, the replacement house's greater height and depth would be especially evident in views from facing windows within Pamela Hay House.

¹ Appeal decisions APP/X5990/W/22/3312844, dated 15 September 2023 and APP/X5990/W/24/3356280, dated 5 March 2025

11. In forming these views, I have had regard to the technical analyses submitted by the appellant, particularly the Daylight and Sunlight Assessment² and the Sense of Enclosure report³. However, the former assesses the proposal against tests contained within the Building Research Establishment publication 'Site layout planning for daylight and sunlight: A guide to good practice' which demonstrate effects on light rather than outlook. Notwithstanding this, the Daylight and Sunlight Assessment's Waldram diagrams depict the increased scale and greater enclosing effects of the replacement house when viewed from Pamela Hay House, especially some upper ground floor and first floor flat rooms.
12. The Sense of Enclosure report presents height reference points for the existing house and that proposed. These indicate that the top of the replacement house (reference point C (proposed)) would only be set 0.47 metres higher than the top of the existing house (reference point B (existing)). However, this is not at all reflective of the plans and other evidence before me which demonstrates that the proposed house would be, much more considerably, the taller building. This undermines the confidence I have in the Sense of Enclosure report's assessment.
13. For the reasons given, the development would result in unacceptably harmful effects on the living conditions of occupiers within Pamela Hay House, with specific regard to their outlook. Consequently, the development conflicts with Policies 7 and 42 of the City Plan. Altogether, in summary and amongst other matters, these Policies seek to ensure neighbourly development which protects and, where appropriate, enhances amenity by preventing unacceptable impacts, including in terms of sense of enclosure, whilst they also seek to promote health.

Energy use, waste, carbon emission minimisation and sustainable design matters

14. City Plan Policy 43 sets out that all development should adopt a retrofit-first approach which prioritises the retention and re-use of existing buildings. It also sets out that developments should minimise embodied carbon emissions and support the circular economy. Where the entire demolition or substantial demolition of a building is proposed, Policy 43 requires a sequential test to be met, with relevant elements evidenced through a Pre-Redevelopment Audit. The Policy further requires developments involving such demolition to be supported by a Whole Life-Cycle Carbon Assessment.
15. In order to pass Policy 43's sequential test, certain demonstrations must be made. In summary, this test has four components to be addressed sequentially, and those components require it to be demonstrated that:
 - i. the existing building cannot be safely retained;
 - ii. retrofit options cannot deliver the best use of the land, meet a statutory requirement or address an operational need;
 - iii. the whole life carbon emissions of the development are less than a retrofit scheme;
 - iv. the development would deliver additional public benefits which could not be delivered by a retrofit scheme

² BRE Daylight and Sunlight Assessment, by The Daylight Lab, dated April 2025, referenced 2521/DSA

³ Sense of Enclosure report, by Planning for Sustainability, dated May 2025, revision 02

16. Although I have been referred to the feasibility constraints of retaining the existing building, considered deficiencies with the existing building's fabric and suitability for retrofit, and the considered benefits and energy efficiency credentials of the replacement house, these submissions are not supported by compelling evidence including no Pre-Redevelopment Audit submission. Neither has a detailed comparison with an alternative retrofit option been made, including no quantified emission comparisons. Therefore, the development fails Policy 43's sequential test.
17. The submission of a Whole Life-Cycle Carbon Assessment, demonstrating how the development would achieve maximum reductions in upfront embodied carbon is, in itself, a key requirement of Policy 43. Since the development would involve the construction of a new building, Policy 43 also requires the submission of a Circular Economy Statement to demonstrate how materials would be re-used and re-purposed. Each of these submissions are absent.
18. For these reasons, the development fails to adopt the retrofit-first approach required by Policy 43, and it conflicts with the Policy as a result. In the absence of a Circular Economy Statement the development also conflicts with City Plan Policy 41, which specifically relates to waste management, given that Policy 41 sets out that the Council will promote the circular economy and contribute to the London Plan targets for recycling and for London's net self-sufficiency by 2026.
19. Furthermore, in failing to provide for, or adequately discount, the retention and re-use of the existing building, the development would not enable an extension of the existing building's lifetime or optimise resource efficiency. This enabling and resource efficiency optimisation are, amongst other matters, requirements of City Plan Policy 42. Consequently, the development conflicts with Policy 42.
20. Finally, since the development fails to adopt the retrofit-first approach, and is not accompanied by the likes of the Whole Life-Cycle Carbon Assessment and the Circular Economy Statement, I cannot conclude that it adequately demonstrates that it represents a 'lean' development which limits on-site energy demand. Consequently, the development conflicts with City Plan Policy 40 which, amongst other matters, expects all developments to reduce on-site energy demand and maximise the use of low carbon energy sources to minimise the effects of climate change, and follow the principles of the Mayor of London's energy hierarchy.
21. In reaching these findings, I note that Westminster's Environmental Supplementary Planning Document's (the Environmental SPD) requirements to meet the whole life carbon standard, and for the submission of Whole Life-Cycle Carbon Assessments, Circular Economy Statements and Energy Assessments apply to major developments or other specific developments, which this proposal is not. However, the Environmental SPD pre-dates the City Plan and, as a whole, the set of City Plan environmental-related policies the Environmental SPD assists in interpreting have been updated. Consequently, I give more weight to the City Plan Policies which place greater demands on proposals.
22. I have also had regard to the conditions suggested without prejudice to the outcome of the appeal by the Council, which includes those requiring the submission of a Whole Life Carbon Assessment, a Pre-demolition Audit, a Circular Economy Statement and a Sustainable Design Statement, and the appellant's commentary on them. However, determining whether demolition of the existing building is acceptable or not having regard to the retrofit-first approach, the

promotion of extended building lifetimes and the Circular Economy are fundamental matters striking at the heart of the acceptability of the development. Such important planning considerations cannot be deferred to a later juncture. Therefore, my objections to the development in relation to this main issue cannot be resolved via the imposition of conditions.

23. For the above reasons, the development does not comply with the relevant development plan policies which relate to limiting energy use and waste, carbon emission minimisation and sustainable design principles.

Affordable housing

24. City Plan Policy 13 sets out that the Council will ensure housing development helps meet the housing needs of Westminster residents and contributes to the London Plan strategic target for 50% affordable housing delivery in London. In relation to small-scale residential development, Policy 13 requires 20% of the floorspace to be provided as affordable housing either on-site or via a financial contribution to the Council's Affordable Housing Fund. Policy 13 further sets out that should any small-scale residential development seek to be relieved of the full affordable housing requirement, a demonstration must be made through viability evidence.
25. The supporting text to the Policy provides some background on the gravity of the affordable housing need and, in this context, states that it is essential that all residential developments creating new homes contribute to affordable housing provision. Neither the Policy nor its supporting text defines what is precisely meant by a 'new home', but the supporting text excludes upgraded or additional floorspace to existing homes. This indicates to me that a single new-build house, even if it's a replacement, can constitute a new home.
26. Furthermore, pages 14-15 of the Emerging SPD seek to define what Policy 13's reference to a new home means. It includes demolition and rebuild, or reconfiguration of existing buildings (which may include some extensions), to deliver a different quantum of homes and/or different dwelling sizes and layouts. The Emerging SPD's definition further sets out that all typologies of new homes will result in homes of a different size and layout, therefore catering for a different market or level of housing need compared to the homes that previously existed on site.
27. Therefore, according to the Emerging SPD, the demolition and replacement of an existing house can constitute a new home and trigger an affordable housing requirement. However, it involves the exercise of judgement, and the extent to which the replacement home would differ from the existing one is an important consideration.
28. The replacement house would have a total of four floors of accommodation in comparison to the existing two. The replacement house would have an extra bedroom, whilst its amenities would feature the likes of a media/games room, a gym, a sauna and a library, all absent in the existing house. Overall, the replacement home's accommodation would be considerably different from the existing one, it would very much be a different type of home.
29. Therefore, set against the Emerging SPD's definition, the development would create a new home. Since the Emerging SPD is being consulted upon, its content could change. Even at a time it becomes finalised and adopted by the Council it

would not form part of the development plan. This all means that the weight I attribute to the Emerging SPD overall is limited.

30. Nevertheless, the Emerging SPD provides the most substantive analysis before me of what the term new home means, and I have found that the proposed replacement house meets its definition. Furthermore, City Plan Policy 13 does not set out that replacement homes cannot constitute new homes. Altogether, this leads me to conclude that the development would result in a new home, and a contribution to affordable housing provision is therefore required.
31. In reaching this conclusion, I note that the appellant sets out that providing the affordable housing contribution sum suggested by the Council would not be viable. However, there is no appraisal or other substantive viability evidence before me. I cannot therefore accept this assertion to be the case. The appellant also refers to permitted development rights through which the existing dwelling could be extended in any case. However, Policy 13's affordable housing requirements are not designed to capture extensions to existing homes. Extending the existing house is not what is proposed, its replacement is, and Policy 13's affordable housing requirements are engaged. Therefore, that the existing house could potentially be extended via permitted development rights is not a fallback position which weighs in the proposal's favour to any meaningful extent.
32. No Section 106 agreement is before me which secures any contribution towards affordable housing. The Council's suite of suggested conditions include a condition requiring that appropriate arrangements be made to provide the affordable housing requirement. The Council submit that appropriate arrangements would include the entering into of a Section 106 agreement to secure a financial contribution towards the Council's Affordable Housing Fund. However, this condition is suggested on a without prejudice basis in case the appeal was allowed.
33. The Planning Practice Guidance sets out that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases, but it can be used in exceptional circumstances. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. No demonstration of exceptional circumstances is before me, therefore, I find that the imposition of a condition to secure the affordable housing contribution via a Section 106 agreement would be inappropriate in this case.
34. Therefore, the development is required to contribute towards the provision of affordable housing, but appropriate arrangements to do so have not been made. Consequently, the development conflicts with City Plan Policy 13.

Other Matters

35. The replacement house would provide improved accommodation for its occupants and, in providing new purpose-built accommodation, would be likely to require less maintenance. The development would deliver some landscaping improvements and biodiversity enhancements. Although there is no mechanism before me which would restrict its occupation, it is also submitted to me that the replacement home's improved accommodation offer would enable the existing dwelling's occupants to stay in the area. However, altogether, the benefits deriving from these factors

would be too modest to outweigh the harms and development plan policy conflicts I have found in my main issues.

36. Amongst other matters, the future occupiers would be provided with adequate living conditions, I have no reason to conclude the development could not be adequately drained and no prejudicial impacts on highway safety or unacceptable noise would arise. However, the absence of harm in these and other regards is of neutral consequence.
37. The site is situated within the St John's Wood Conservation Area (the CA). The CA is notable for providing an example of suburban London expansion. It exhibits character areas with groups of similarly designed houses, tree lined avenues whilst many properties are set within attractive landscaped gardens. Therefore, the significance of the CA principally stems from its architectural interest.
38. Situated within a more secluded part of the CA, adopting a back-land position to the rear of other buildings, the appeal site is not prominent. The existing house's appearance and character is not very reflective of many of the more traditional and ornately designed properties in the area which contribute positively to the CA. Overall, whilst the replacement dwelling would have some meritorious facets to its architectural design in comparison to the existing house these would only be modest and, coupled with its secluded position, the effects of the development on the character and appearance of the CA as a whole would be neutral.
39. Listed buildings are also located within the surroundings of the appeal site. On Clifton Hill, this includes Nos 84 and 86, 88 and 90, 92 and 94, 102 and 104. On Greville Place there is Nos 18 and 20, and on Greville Road there is No 39a. Each of these are grade II listed, and the significance of them is principally derived from their architectural interest: they are each fine examples of planned suburban development in this part of London, displaying traditional architecture and material composition.
40. Again, owing to its secluded position, and the screening offered by intervening buildings and landscaping, the development would not appear as a prominent feature within the setting of any of the nearby listed buildings. As a replacement dwelling, even though it would adopt different design details, its character would be broadly congruous with that of the listed buildings. Overall, the proposal would result in a neutral effect on the significance of the listed buildings and would not cause harm to their setting.

Conclusion

41. The development conflicts with the development plan as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

H Jones

INSPECTOR