



**Department of the Environment and
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letter
2 Nov 1989

Parvardin Associates
Architects
9 Cavendish Square
LONDON
W1M 9DD

Your reference

Our reference

T/APP/X5210/A/88/93973 and
Date 93974

19 JAN 89

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEALS BY S M JAZAERI
APPLICATION NOS: PL/8803755 AND PL/8803710

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals which are against the failure of the London Borough of Camden Council to determine 2 planning applications for the erection of a 4-bedroom house on land at 30A Thurlow Road, London, NW3. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 18 October 1988.
2. The appeal site is a rectangular area of land measuring approximately 15 m deep by 19.5 m wide. It fronts onto Thurlow Road which rises from its junction with Rosslyn Hill. No 41 Rosslyn Hill stands on the corner plot and is a 3-storey building with a basement, all of which is divided into 4 flats. Nos 29 and 30 Thurlow Road are a pair of semi-detached Victorian villas also rising 3 storeys above semi-basements. The appeal site occupies much of what was formerly the garden of 41 Rosslyn Hill. There are 3 trees on the site although one of them, a beech, is agreed to be diseased and to require removal. There are windows to habitable rooms in the rear elevation of 41 Rosslyn Hill at basement and ground floor level. There are no windows in the side elevation of 30 Thurlow Road. The site is within the Fitzjohns/Netherhall Conservation Area.
3. Some of the representations made in respect of this appeal relate to a dispute between the owners of the appeal site and those of 41 Rosslyn Hill about the precise location of the common boundary between the properties. This is not a matter with which I should become concerned. My remit is simply to determine the appeals which are before me on the basis of the content of the Development Plan for the area and any other material considerations. The question of land ownership is not, in my view, a material consideration and whilst the ownership dispute may affect the implementation of any planning permission I might grant, it does not have a bearing on the planning merits of the proposals I am to consider.
4. From my inspection of the appeal site and its surroundings, and from the representations made I have decided that the principal issues I must consider are firstly whether the appeal proposals would have an unacceptable effect on the amenities of occupiers of 41 Rosslyn Hill by virtue of loss of light, outlook and privacy; and secondly whether the proposals would be so detrimental to the appearance and character of the Conservation Area that planning permission ought to be withheld. I will consider the appeals in turn, dealing first with the proposal to erect a new 4-bedroom house by adding an extension to the 3-bedroom house permitted in 1978 and again in 1983 (Reference APP/X5210/A/88/93974).

5. I take the view that it is not possible to add an extension to a building that does not exist. I understand that the intention of the application was to secure an amendment to the planning permission which was in existence at the time that the application was made. However the lapse of the permission and the non-existence of the formerly approved building suggest to me that it would be inappropriate to consider the proposal as an extension. I propose to deal with the matter as an appeal relating de novo to the erection of a 4-bedroom dwelling; the wording of the description of the proposed development and the submitted plans enable me to do so and both parties to the appeal suggest that this is appropriate.

6. It is proposed to erect a house built on 2 levels with the majority of the floor-space at ground floor level with a further bedroom and bathroom at lower ground level. The north-eastern elevation of the proposed house would be approximately 9 m from the rear wall of No 41 Rosslyn Hill. The elevation would be blank apart from the window to the proposed bedroom at lower ground level. This window would be at roughly the same level as the basement windows in 41 Rosslyn Hill but the maintenance of the existing ground level along the site boundary and the erection of a screening wall or fence would preclude direct overlooking between these windows. The height difference between the proposed bedroom window on the appeal site and the ground floor windows in 41 Rosslyn Hill would be such as to preclude any undue loss of privacy in the existing property. I consider that the height of the proposed building and the distance between it and the rear of 41 Rosslyn Hill combine to produce a relationship which could not, in a high density residential environment such as this, be regarded as unreasonable or unacceptable. Whilst the occupiers of the basement and ground floor flats in 41 Rosslyn Hill would inevitably experience a significant change in their outlook, I do not consider that this aspect nor the natural lighting and privacy enjoyed by their occupants would be so seriously harmed by the appeal proposal that planning permission ought to be withheld on these grounds.

7. Turning to consider the effect of the proposal on the appearance and character of the Conservation Area, I have decided, subject to certain provisos, that the building would be compatible with its surroundings and would not harm the appearance and character of the area. It is not the intention of Conservation Area designation to preclude new development. Indeed it is evident that modern development has taken place elsewhere in the vicinity with, to my mind, varying degree of success in visual terms. I am satisfied however that a building of the size, shape and disposition of that proposed is capable of meeting the standards of design applicable in this Conservation Area and that, subject to very careful consideration of the materials to be employed and the finer details of the design, planning permission should be granted for its construction. Its height, location and roof form would render it relatively unobtrusive in the street scene and there is adequate space around it to produce a verdant frontage which would reflect and indeed supplement the mature vegetation elsewhere in the street. This could be achieved by means of a well designed landscaping scheme and I propose to attach a condition requiring the submission and implementation of a planting scheme and other details to the permission I shall issue.

8. There have been a great many matters raised in the representations made in respect of this appeal, I have considered them all carefully but, having regard to the general presumption in favour of development proposals and the need to make full and effective use of potential housing land in existing built-up areas, I have not identified any objections to the proposal which, in my opinion, are so convincing and cogent that they justify withholding planning permission in this case.

9. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of a 4-bedroom house on land at 30A Thurlow Road, London, NW3 in accordance with the terms of the application (No PL/8803710) dated 22 March 1988 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. prior to the commencement of the development hereby approved, details of the following matters shall be submitted to and approved by the local planning authority:

screen walls or fences, including any retaining walls; all external materials and finishes; finished site levels; a scheme of landscaping to include the replacement of the beech tree on the site;

such details as are approved shall be implemented as part of the scheme and in the case of landscaping shall be carried out in the first planting season following the substantial completion of the building.

10. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

11. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971. Your attention is drawn to the provision of Section 277A of the Town and Country Planning Act 1971 (inserted into the Act by the Town and Country Amenities Act 1974) as amended by paragraph 26(2) of Schedule 15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

12. I turn now to deal with the appeal for the alternative scheme to build a 4-bedroom house on the appeal site (Reference APP/X5210/A/88/93973). This proposal is similar in size and form to that which was the subject of an appeal dismissed in January 1988. The current appeal proposal involves a hipped roof rather than a flat one and the detailing of the external appearance is quite different. In both respects I find the current appeal scheme an improvement over its predecessor.

13. However I have considered the likely impact of the proposed building on the occupiers of flats in 41 Rosslyn Hill. The north-eastern elevation would be between 7.5 and 8 m from the windows of flats in the existing building. Persons using the drive-way alongside the proposed building could be less than 4 m from the rear windows of 41 Rosslyn Hill and would have a clear view into the basement and ground floor flats. Windows in the ground level accommodation of the proposed house, although designed as fairly narrow slits where they serve habitable rooms, would, in my opinion facilitate direct viewing across the narrow intervening space to the rear of 41 Rosslyn Hill. These matters combine in my view to produce a relationship between existing and proposed living accommodation which is likely to reduce to an extent which I consider unreasonable and unacceptable the residential amenities enjoyed by the occupants of the flats at the rear of 41 Rosslyn Hill. I consider that those occupants would find the presence of the appeal building over-powering and unpleasant.

14. Notwithstanding all of the matters raised in the representations on this appeal, including the conclusions reached by the Inspector whose decision letter was issued on 22 January 1988, I have decided, in exercise of the powers transferred to me and for the above reasons to dismiss this appeal.

I am Gentlemen
Your obedient Servant

 Stewart

MRS G R STEWART BSc DipTP MRTPI
Inspector