
Appeal Decision

Site visit made on 16 January 2017

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date:

Appeal Ref: APP/X5990/W/16/3160292

Land adjacent to 29 Ebury Street, London SW1W 0NZ

- 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 Laura Santtini (Santini Restaurant) against the decision of the City of Westminster Council.
 - The application Ref 16/02029/FULL, dated 7 March 2016, was refused by notice dated 5 May 2016.
 - The development is 'Boundary treatment comprised of raised rectangular planters around the perimeter of the dining terrace fronting Ebury Street at Santini restaurant.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, I noted that the development had been completed. I shall consider the appeal accordingly.

Main Issues

3. The main issues are the effect of the development upon:
 - (a) The character and appearance of the area which includes the setting of the Belgravia and Grosvenor Gardens Conservation Areas; and
 - (b) Highway safety, with particular regard to pedestrian safety and the maintenance of the footway.

Reasons

Character and appearance

4. The appeal site is located to the side of Santini restaurant, on the south-east corner of the junction of Ebury Street and Lower Belgrave Street and north of Eccleston Place. Santini restaurant occupies premises on the ground and first floor of the 7 storey mid-20th century building on this corner. The appeal site is a 'U' shaped strip of land surrounding the north, west and south perimeter of an area to the side of the building which, at the time of my site visit, was occupied by a number of tables and chairs and partly covered by an awning and appeared to be in use as an outdoor dining area associated with the restaurant. The development which is the subject of this appeal is a series of planters which together form a means of enclosure around this outdoor dining area.
-

5. The Belgravia and Grosvenor Gardens Conservation Areas (the Conservation Areas) cover the streets immediately to the west and north of the appeal site. Both Conservation Areas are characterised by formal 19th century development, including many listed buildings, laid out in a series of squares, crescents and terraces and featuring wide streets with generous footways. The Belgravia Conservation Area is predominantly residential with some shops and a number of embassies, diplomatic buildings and institutional headquarters. Within the Grosvenor Gardens Conservation Area there are a variety of land uses, including offices, residential and public open space.
6. The development is sited on a prominent corner at a crossroads and encloses an area of land to the side of the building of considerable depth and length. There are raised brick planting beds in front of Belgravia Court immediately to the south of the appeal site. The western boundary of these beds clearly demarcates the back of the footway on Ebury Street, and retains a generous pavement in keeping with the character of the area. The planters which are the subject of this appeal are sited on the footway on Ebury Street and, in views along the street, they clearly project forward of the line formed by the Belgravia Court planting beds. Consequently, the development introduces visual clutter and considerably narrows the footway adjacent to the western boundary of the appeal site. This intrudes into the vista along the street and has an adverse effect on views of the adjacent Conservation Areas from both the north and south.
7. I note that the planters have replaced a series of smaller containers. However, based on the submitted evidence, these earlier planters do not appear to have been as substantial or extensive as the scheme before me.
8. Whilst the muted colour, simple clean lines and scale of the planters relate well to the adjacent building, and the clipped evergreen hedge and small olive trees soften their appearance and add to the greenery in the area, these factors do not outweigh the harm I have identified arising from their siting.
9. My attention has been drawn to planters to the front of 54b Ebury Street. I am not aware of their planning history. However they are modest in extent and scale, follow the line of other boundary treatment along that part of the street and are not situated on a prominent corner. As such, the circumstances of that scheme are not directly comparable with the appeal scheme. Consequently I attach it limited weight and, in any event, I must determine the appeal on its own merits.
10. The appellant makes reference to the use of outdoor dining and drinking areas fronting the highway in the locality, including those on Lower Belgrave Street near the junction with Ebury Street and The George at 87–102 Mount Street, although I do not have any information regarding their planning history. Based on my observations on site and the evidence before me, some establishments on Lower Belgrave Street make use of the forecourt space to the front of the premises to put out tables and chairs. However, these outdoor dining and drinking areas do not appear to encroach onto the footway and where boundary treatment exists it seems to be of a temporary nature such as removable café barriers. Although of a more substantial nature, the planters which form the boundary to the dining space outside The George serve to enclose the narrow forecourt areas on both sides of this corner building and follow the same alignment as other boundary treatment at the back of the

footway along Mount Street and Great Audley Street. It would therefore appear that these other schemes are not directly comparable with the appeal scheme and so I have afforded them only limited weight. They do not lead me to find the appeal scheme acceptable.

11. Whilst a number of informal 'parklets' have been created in the surrounding area, based on the submitted evidence, these appear to involve the placement of planters around street trees set within generous paved areas rather than boundary treatment, and therefore they differ to the appeal scheme. They too therefore have limited weight.
12. For the reasons set out above, I conclude that the development has a harmful effect upon the character and appearance of the area and the setting of the Belgravia and Grosvenor Gardens Conservation Areas. As such, the appeal scheme does not accord with the design and heritage conservation and enhancement aims of Policy S28 of Westminster's City Plan (the City Plan), Policies DES 1 and DES 9 of the City of Westminster Unitary Development Plan (the UDP) and Parts 7 and 11 of the National Planning Policy Framework.
13. I conclude that the harm to the Conservation Areas, which are designated heritage assets in terms of the Framework, is less than substantial. Nevertheless, any harm still requires clear and convincing justification. Paragraph 134 of the Framework states that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Whilst the planters may contribute to the privacy, security and comfort of customers using the outdoor dining area this does not amount to a public benefit sufficient to outweigh the harm caused to the heritage assets.

Highway safety

14. The junction of Ebury Street and Lower Belgrave Street has light controlled pedestrian crossing facilities which, at the time of my site visit during the middle of the day on a weekday, were well used. Directly opposite the appeal site on the north side of Lower Belgrave Street is a primary school, and there are a number of local shops and services to the west of the junction. These land uses are likely to generate significant footfall in the local area.
15. I have not been provided with a copy of the adopted highway records in relation to the appeal site and the surrounding area. The submitted title deeds indicate that the demise of the Santini restaurant includes a broadly rectangular area of land at ground floor level to the west of the building. However, the private ownership of the land would not in itself prevent it from being public highway.
16. In any event, the appellant accepts that the planters along the western boundary of the appeal site on Ebury Street are located outside the demise of the restaurant as shown on the title plan. It was clear from my site visit that these planters have been placed on the footway, and their position significantly reduces the width of the pavement along this part of the street. Given the proximity to a well-used pedestrian crossing, the narrowing of the footway in this location impedes the easy and direct passage of pedestrians.

17. With regard to the planters along Eccleston Place, the red line on the submitted Block Plan (Drawing No L-01) is positioned south of the rear building line and is therefore outside the demise of the restaurant as shown on the title plan. I noted at my site visit that these planters are sited on the footway which carries on east beyond Belgravia Court, connecting to the continuation of Eccleston Place and Phipp's Mews and thus in turn to the busy thoroughfares of Buckingham Palace Road to the east and Eccleston Street to the south. At the time of my site visit, the footway was fairly well used. Although vehicular access to the remainder of Eccleston Place is controlled by a barrier, the road is nevertheless used by vehicles.
18. The development has narrowed the footway on Eccleston Place considerably. It is particularly narrow at the south-west corner of the building, where the planters project beyond the rear elevation and reduce the available footway to a little over 1m. This pinch point is exacerbated by the location of nearby bollards which are set back off the kerb line. It would therefore be difficult for pedestrians to pass one another with ease and it would not be possible for a wheelchair user and pedestrian to pass each other. This is likely to result in pedestrians stepping into the carriageway and coming into conflict with vehicles.
19. To the north of the appeal site the boundary treatment is set well back behind the Lower Belgrave Street building line and an ample area of footway is retained outwith the planters.
20. My attention has been drawn to guidelines relating to the recommended minimum width of footways set out in a Highways Agency document¹. However, I note that the document was produced for training purposes and guidance only. The City of Westminster Supplementary Planning Document Westminster Way – Public Realm Strategy Design Principles and Practice (the SPD), states at paragraph 232 that where streets have footways less than the recommended width in Manual for Streets (2m) there should be no significant obstructions. Reference to pinch points in Diagram 7 on page 82 of the SPD relates to poles placed in the footway, and states that such pinch points should be localised at the pole and not linear. The development along Eccleston Place conflicts with the SPD in this regard.
21. The appellant makes reference to the Council's Tables and Chairs on the Highway Supplementary Planning Guidance (the SPG), although I have not been provided with a copy of the document. In particular, my attention has been drawn to guidance in the SPG which states that a clear width of 1.8m should remain for the safe passage of pedestrians where tables and chairs are placed on the highway. Although the appeal relates to boundary treatment, it serves the purpose of enclosing an outdoor area with tables and chairs and so the SPG appears to be of some relevance. Based on the evidence before me, the Eccleston Place element of the appeal scheme conflicts with that part of the SPG to which the appellant refers.
22. My attention has been drawn to paragraph 253 of the SPD which sets out guidance in relation to street trading licences. Any requirement for a street trading licence for the placement of tables and chairs and associated paraphernalia on the public highway is a matter separate to the planning considerations of the case before me.

¹ Highways Agency DDA Compliance Programme Design Compliance Assessment Guide DDA Training Spring 2010.

23. I have no evidence to demonstrate how the development hinders street cleaning on the footway outwith the area enclosed by the planters, nor of any adverse effect on the cleansing of the outdoor dining area. Notwithstanding this finding, for the reasons set out above, I conclude that the development has a harmful effect upon highway safety, with particular regard to pedestrian safety. As such, the appeal scheme does not accord with the aims of Policy S41 of the City Plan, Policies TRANS 3 and TACE 11 of the UDP and the SPD which seek to prioritise pedestrian movement and secure a safe, convenient and attractive pedestrian environment.

Other matters

24. The lawfulness of the use of the area enclosed by the planters for outdoor dining is not for me to judge through the consideration of this appeal. It is open to the appellant to seek a separate determination in that regard, and I note their stated intention to do so.
25. I have no evidence that the Compulsory Purchase Order and demolition of the building in which Santini restaurant is located is certain to go ahead. Furthermore, it is not clear from the evidence before me what direct effect the boundary treatment has upon the restaurant's revenues and so I attach limited weight to this matter.
26. The Council has raised concerns regarding the maintenance of the mature street trees within the area enclosed by the planters. However, this could have been secured by condition if I had been minded to allow the appeal.

Conclusion

27. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

CL Humphrey

INSPECTOR