



Appeal Decision

Site visit made on 8 September 2020

by G Rollings BA (Hons) MAUD MRTPI

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

Decision date: 13 October 2020

Appeal Ref: APP/X5990/W/20/3248631

4a Sunderland Terrace, London, W2 5PA

- 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 Mr Iain Watson against the decision of City of Westminster Council.
 - The application Ref 19/09126/FULL, dated 25 November 2019, was refused by notice dated 21 January 2020.
 - The development proposed is infill under front entrance bridge and associated works to enlarge lower ground floor front vaults. Erection of replacement single storey rear extension at lower ground floor level with associated steps up to garden. Erection of single storey infill extension at rear upper ground floor level.
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Decision

1. The appeal is dismissed insofar as it relates to infill under front entrance bridge and associated works to enlarge lower ground floor front vaults. The appeal is allowed insofar as it relates to the erection of replacement single storey rear extension at lower ground floor level with associated steps up to garden, and the erection of single storey infill extension at rear upper ground floor level. Planning permission is granted for the erection of replacement single storey rear extension at lower ground floor level with associated steps up to garden, and the erection of single storey infill extension at rear upper ground floor level at 4a Sunderland Terrace, London, W2 5PA in accordance with the terms of the application, Ref 19/09126/FULL, dated 25 November 2019, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the conditions set out at the annex at the end of this letter.

Procedural Matter

2. The Council has not objected to the parts of the proposal which I have permitted, and having assessed the plans, I am satisfied that the proposed building works relating to both the allowed and dismissed parts of the appeal are separable.

Main Issue

3. The main issue is the effect of the removal of two lime trees on the character and appearance of the Westbourne Conservation Area.

Reasons

4. The trees are located in the front garden of the appeal site, in a raised edge planter directly behind the front boundary wall. They are clearly identifiable on the approach along Sunderland Terrace from both directions and consequently, they have a high degree of visual prominence.
5. Sunderland Terrace consists of imposing terraced rows, shallow front gardens and a feeling of enclosure in the public realm, which is typical of the wider Conservation Area. Visible trees make a significant contribution to the character of the area, and on Sunderland Terrace the neat rows of magnolias provide relief to the highly built-up nature of the street scene. Whilst Sunderland Terrace is identifiable by its homogenous street trees, unlike many of the surrounding streets, the lime trees on the appeal site fill a gap in a row of magnolias, and their prominence is enhanced by the fact that they are of a different species to the other trees on the street.
6. Given the aspect of the host property I accept that the trees on the appeal site have an impact on sunlight and daylight. However, limes are a long-lived species and these would have been growing in their location for many years, maintained at size. I noticed other lime trees within the immediate area, including those near 1 Sunderland Terrace and at 50 Westbourne Gardens, which are also large and appear to be managed through regular maintenance. There is nothing before me to suggest that the trees on the appeal property are in poor health or vigour or that they are suffering from pests, disease or decay, and nothing to suggest that they would not live for many more years. Notwithstanding these matters, the fact remains that the presence of large trees near residential properties are not unusual, particularly in an area defined by a mature landscape, such as this. The Council's *Westbourne Conservation Area Audit* (2002) recognises the important contribution made by mature trees to the character and appearance of the Area.
7. There is a gap in the arrangement of the street trees by the appeal property, and the appellant is proposing to fill this with new magnolia trees, to offset the loss of the limes. Any benefits of the existing mature trees being replaced by ones of the same species as others in the street are neutral at best, and are lessened by the fact that the replacements would take some time to become fully established and would offer a lesser amenity value than the current large trees during this time. Accordingly, the loss of the trees would result in considerable harm to the character and appearance of the area.
8. In considering the less than substantial harm to the character and appearance of the Conservation Area, I have weighed the harm against the public benefits of the proposal, as required by paragraph 196 of the *National Planning Policy Framework* (2019) (the Framework). The benefits in this case are the provision of replacement street tree planting. I have before me a completed Unilateral Undertaking, which allocates funding of £8000 for the Council to carry out replacement street tree planting, mitigating the loss of the lime trees. There is disagreement between the parties as to the cost of procuring, planting and maintaining new trees. In particular, the appellant has provided prices of 5m magnolia trees and a 2012 document from Bristol City Council setting out comparative charges for planting, and the Council has not provided evidence to support its suggestion of a contribution of £5000 per tree. I have no reason to disagree with either party's estimate, but that of the appellant are based on

firmer evidence and appear to be based on realistic upward adjustments for the present day and location.

9. I am not convinced by the Council's assertion that four replacement trees should be provided, given the spacing of existing examples in the street, particularly as such a number would go beyond mitigating the loss of the lime trees, notwithstanding aspirations to widen urban planting. I acknowledge that underground services may restrict additional planting, but I noted pavement service hatches and posts in close proximity to other trees on the street, and the Council has not provided further information support its concerns. Taking these factors into account, I consider the Undertaking to accord with the tests as set out in Paragraph 56 of the Framework, and as such, it has beneficial weight on my decision.
10. However, on balance, this not sufficient to outweigh the harm resulting from the loss of two long-established, mature trees which are a recognisable feature of the area. I therefore conclude that the removal of the trees would fail to preserve or enhance the character or appearance of the Westbourne Conservation Area, and would conflict with the Council's *Westminster City Plan* (2016) Policies S25, S28 and S38, as well as *Unitary Development Plan* (2007) Policies DES 1, ENV 16 and ENV 17. Together, these policies safeguard all trees in Conservation Areas and require exemplary standards of design, amongst other considerations.

Conclusion and Conditions

11. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.
12. I have assessed the Council's suggested conditions against the tests set out in the Planning Practice Guidance (PPG)¹, and with reference to the comments of the appellant. Condition No. 2 is included for the absence of doubt, conditions No. 3 and No. 6 are included to preserve the living conditions of the occupiers of surrounding properties, and conditions No. 4 and No. 5 are applied to preserve the character and appearance of the Conservation Area.
13. I have not included conditions relating to replacement tree planting, as these are not relevant to the allowed part of the appeal. I have retained other landscaping conditions with the appellant's suggestions, as they are relevant to landscaping around the works at the rear of the property.

G Rollings

INSPECTOR

¹ PPG reference ID: 21a-003-20190723; revision date: 23 07 2019.

ANNEX: LIST OF CONDITIONS

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, insofar as they relate to the allowed parts of the appeal, namely the erection of replacement single storey rear extension at lower ground floor level with associated steps up to garden, and the erection of single storey infill extension at rear upper ground floor level: 765.201B; 765.240C; 765.241C; 765.243C; 765.246C; 765.247C; 765.248C; and 765.249C.
- 3) Except for piling, excavation and demolition work, you must carry out any building work which can be heard at the boundary of the site only:
 - between 08.00 and 18.00 Monday to Friday;
 - between 08.00 and 13.00 on Saturday; and
 - not at all on Sundays, bank holidays and public holidays.

You must carry out piling, excavation and demolition work only:

- between 08.00 and 18.00 Monday to Friday; and
- not at all on Saturdays, Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours unless otherwise agreed through a Control of Pollution Act 1974 section 61 prior consent in special circumstances (for example, to meet police traffic restrictions, in an emergency or in the interests of public safety).

- 4) All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings hereby approved or are required by conditions to this permission.
- 5) Notwithstanding any details shown on the plans, prior to the first occupation of the development hereby approved, details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - number, size, species and position of trees and shrubs;
 - soil specification, depths and volumes; and
 - irrigation and natural drainage.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

All planting comprised in the approved details of landscaping shall be carried out in the first planting seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or hedges which within a period of 5 years from the completion of the development die or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 6) You must not use the roof of the rear extension for sitting out or for any other purpose. You can however use the roof to escape in an emergency.