



Appeal Decision

Site visit made on 9 October 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/X5990/W/23/3316683

141 Ebury Street, City of Westminster, London SW1W 9QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Ms Julia Brown of Bayley & Sage against the decision of City of Westminster Council.
 - The application Ref 22/05965/FULL, dated 2 September 2022, was refused by notice dated 10 January 2023.
 - The development proposed is described as, *'temporary siting of a florist kiosk to the private forecourt area to the front of unlisted building, No 141 Ebury Street for one year'*.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the original application form. The decision notice does however include planters which appears undisputed. I have therefore had regard to this.
3. The works as described above including the siting of planters have already taken place onsite. I have therefore assessed the appeal accordingly.

Main Issues

4. The main issues of the appeal are the effect of the development on;
 - Public safety; and
 - The character and appearance of the host building and surrounding area, including whether it would preserve or enhance the character or appearance of the Belgravia Conservation Area (CA) or preserve the setting of the adjacent Grade II listed buildings located at 139, 114 and 116 Ebury Street, as well as the setting of 143-161 Ebury Street which are identified as unlisted buildings of merit within the draft Belgravia Conservation Area Audit (BCAA).

Reasons

Public safety

5. The appeal site relates to a florist/retail shop located within a busy commercial setting, occupying a prominent position on the corner where Ebury Street meets Elizabeth Street. The property fronts both streets and a footpath wraps around both sides beyond of which is the main road. Given the busy

commercial setting, both the footpath and main road are well used and there is a constant flow of pedestrian and vehicle movements.

6. A florist kiosk and planters have been placed within an area immediately outside of the property fronting onto Ebury Street. Whilst the kiosk is relatively small in scale located against the wall of the building, the planters and associated items project some distance from the main building into an area directly adjacent the footpath. There is both a lamppost and tree located along this footpath towards the corner of the building and the extent of the planters leaves very little space between these and the lamppost and tree. Consequently, there is limited width of footpath available for pedestrians to use particularly those with wheelchairs and pushchairs as well as other road users. This affects the free flow of pedestrian movement along this section of the footpath to the detriment of public safety as a number of pedestrians particularly those with wheelchairs and pushchairs would need to step into the busy road to pass at this particular point leading to unsafe movements. Given the location at the corner of the junction and busy traffic flow, it is not a safe place to have a restricted pavement width.
7. The private nature of the forecourt and its demise would not alter my findings on this as the positioning of the planters still reduces the amount of space available for pedestrians prejudicial to public safety.
8. I acknowledge that the forecourt area is in line with the metal balustrades and frontages of the adjoining properties along Ebury Street and the pavement width may well be wider than at other points along the street and those nearby. However, it is the case in this particular location that due to the planter's positioning adjacent the footpath, it leaves very little room between the planters and the existing lamppost and tree. I did not see other similar situations nearby as it appears unique to this specific location.
9. My attention has been drawn to a 2015 permission for a 'Pocket Parklet' on the forecourt area and a subsequent application for its retention. Whilst I have very limited details regarding this permission, the images provided show that this was located to the far end of the building away from the junction with a staggered arrangement to respond to pedestrian desire lines. Such measures allowed sufficient distance to remain between the development and the lamppost and tree. This arrangement is totally different from the appeal I am considering which is located closer to the lamppost and tree and thus restricting the free flow of pedestrian movements.
10. I note that the development seeks retention for a temporary period of one year. However, the harm is such where a temporary consent would not be appropriate in this instance.
11. The reason for refusal also includes difficulty in relation to cleaning the footpath. Whilst I do not disagree, this element is of lesser concern as the difficulty would be no more than navigating other areas where space is somewhat restricted and there would likely be other means to ensure this space was kept adequately cleaned.
12. For the above reasons, I conclude that the development unacceptably harms public safety. As such, it is contrary to Policies 25 and 43(D) of the City of Westminster City Plan 2019-2040 (WCP) which together, amongst other matters, explain that proposals for trading from premises extending into the

street will be supported where they would not compromise pedestrian movement or traffic conditions. Despite the dispute regarding the private nature of the forecourt, I find Policy 43(D) to be relevant in this case as it would still extend into the street whether private or not.

Character and appearance

13. The site lies within the CA and is within the setting of adjacent Grade II listed buildings located at 139, 114 and 116 Ebury Street, as well as the setting of 143-161 Ebury Street which are identified as unlisted buildings of merit within the BCAA. As such, I have a duty under Sections S66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and requires special regard to be had to the desirability of preserving the buildings or their setting or any features of special architectural or historic interest which they possess. I have also had regard to paragraph 199 of the National Planning Policy Framework (the Framework) which states that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the assets' conservation. Paragraph 203 of the Framework also explains that the effect of an application on the significance of non-designated heritage assets should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets.
14. The CA is noted for its combination of opulent cream stucco terraces, spacious streets, and the verdant garden squares on which these are set. Few public buildings or landmarks were included in the original layout and this, coupled with the consistent use of materials and repetition of classical architectural detailing, contributes to a high degree of townscape uniformity and coherence.
15. The BCAA although in draft explains that the area around Ebury Street has a mixed townscape, and vibrant small shops and cafes around Orange Square. The appeal building is claimed to be a post-war period building and its ground floor has notable architectural features such as ionic columns, with an attractive uniformity in its design which makes a neutral contribution to the character and appearance of the CA.
16. As referred to above, the florist kiosk does not extend significantly outwards from the host property and is of a limited width. The kiosk is also of a low height covering a very small section of the ground floor allowing a substantial amount of the property including its architectural detailing to be visible. To this end, the elevation fronting Elizabeth Street remains unaltered by the proposed development and this elevation covers a much larger area comprising the same architectural detailing. Given the building's corner position, the detailing of the overall building largely remains unaltered from public vantage points and is therefore still appreciated.
17. Additionally, the kiosk has been designed to be in keeping with the natural stone façade of the building and is partially screened by the associated planters and foliage. It is not therefore of a design, size or scale to detract from the main property nor appear overly prominent in this context.

18. Whilst the planters and associated items project further out from the main building, they are very low level despite their depth and width being greater than the kiosk. They are also dressed in floral displays which by their nature, offer a level of charm and decoration to the street scene. I observed that the arrangement of the displays is carefully organised in a way to be pleasing on the eye and I cannot agree that such displays create visual clutter or are visually intrusive.
19. Many properties nearby benefit from alterations to the front at ground floor level including outdoor seating areas, canopy areas, floral displays, planters and other paraphernalia associated with their commercial uses which ultimately attract customers to the premises. The development does not therefore appear discordant when viewed in context of the diverse appearance of other front additions in the immediate vicinity.
20. I acknowledge the Council's suggestion regarding a lower-level display of a lesser extent although this would not alter my finding on the above.
21. For the above reasons, I find that the development does not unacceptably affect the character and appearance of the existing building and surrounding area and preserves the character and appearance of the CA. For the same reasons, it also preserves the setting of the listed buildings and unlisted buildings of merit. As such, it complies with Policies 38, 39 and 43(C) of the WCP which together, amongst other matters, requires development to respect local context and not detract from any heritage assets. The development also accords with Sections S66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and aspirations of the Framework relating to conserving and enhancing the historic environment.

Other Matters

22. I appreciate that the appellant requires the retention of the kiosk in order to continue offering floristry although there is no compelling case to show that the business could not be sustained without the development subject to this appeal.
23. I have had regard to the images and claims regarding maintenance and anti-social behaviour. However, such matters have not affected my findings as set out above and there is no compelling case to suggest that this would be the case as a result of the outcome of my decision.
24. Third party comments made regarding overall need and business convenience has also not affected my findings in relation to the above main issues.

Conclusion

25. The development causes unacceptable harm to public safety. While it does not cause harm to the significance of heritage assets, this is a neutral consideration in my determination of this appeal. The proposed development therefore conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination including the provisions of the Framework, that outweighs the identified harm and associated development plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR