



Appeal Decision

Site visit made on 14 June 2024

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24TH July 2024

Appeal Ref: APP/X5990/D/24/3340917

25 Blomfield Road, City of Westminster, London W9 1AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Davide and Claire Russo and Ryan against the decision of the City of Westminster Council.
 - The application Ref is 23/07646/FULL.
 - The development proposed is construction of a single storey outbuilding with basement to accommodate swimming pool and plant machinery.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a single storey outbuilding with basement to accommodate swimming pool and plant machinery at 25 Blomfield Road, City of Westminster, London W9 1AA in accordance with the terms of the application, Ref 23/07646/FULL, subject to the conditions in the attached schedule:

Preliminary Matters

2. As the description of development varies between documents submitted for the purposes of this appeal I have used the description from the Council's decision notice, which is a full and accurate description and has been used by the appellant for their statement.
3. The appellant has submitted an addendum Dated 12 March 2024 (Ref: RMT918LAND) to the Arboricultural Survey Impact Assessment & Arboricultural Method Statement by RMT Tree Consultancy Ltd Dated 20 October 2023 (Ref: RMT918), and revised plans 8298-MBP-XX-XX-DR-C-0501 Rev P02, RMT918 – LTPP with their appeal statement. These are intended to overcome concerns expressed by the Council regarding risk of loss of trees on the appeal site and the information provided with application. Given that the Council and other interested parties have had opportunity to comment on the revised plans and additional material submitted, I have accepted the revised plans and additional information in line with the Wheatcroft principles¹ (as refined).

Main Issue

- The main issue is the effect of the development on the character and appearance of the Maida Vale Conservation Area (the CA).

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]], Holborn Studios Ltd v LB Hackney EWHC (admin) (June 2020)

Reasons

4. The appeal dwelling is a substantial semi-detached 19th century house located at the junction of Blomfield Road with Randolph Road. The trees in its rear garden contribute to the verdant character of Randolph Road, the local area and that of the CA. The heritage value of the CA is recognised through its designation, and the Maida Vale Conservation Area Leaflet (2004) identifies that the tree lined streets, vistas and major private amenity spaces combine to give the entire area a leafy character and enhance the character of the buildings and the layout of roads of the CA.
5. In line with the duty imposed on me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
6. The proposal is for a single storey detached building with basement. This would take the form of a summer house that would complement the architectural expression and period of the appeal dwelling. This would house a swimming pool and a basement for associated plant and machinery. The Council's reasons for refusal relate to the potential effects of the development on existing trees in the garden with particular reference to a plum tree identified on the plans as T2. The Council also raised concerns with the absence of material that would clarify the effects on trees in the garden more generally.
7. I am satisfied that the addendum to the Arboricultural Survey Impact Assessment & Arboricultural Method Statement by RMT Tree Consultancy Ltd and revised plans 8298-MBP-XX-XX-DR-C-0501 Rev P02 and RMT918 – LTPP show that the groundworks and below ground structures proposed have been designed to maximise distance to and minimise the risk of loss to T2 and other trees on the appeal site. This material also sets out other protection measures to trees during construction. Detailed design and method statements relating to the foundations and all new groundwork can also be controlled through application of a suitably worded condition.
8. For these reasons, I find that the proposal would not result in the loss of trees on the appeal site and would, therefore, preserve the character and appearance of the CA. As such, it accords with Policies 34, 38 and 39 of Westminster's City Plan 2019-2040 (2021), D3 and D3 and HC1 of the London Plan 2021 and Sections 12 and 16 of the National Planning Policy Framework (2023). These collectively seek developments that are of high quality design, protect green infrastructure, respond to context and preserve and enhance the character or appearance of Conservations areas.

Conditions

9. I have had regard to the conditions suggested by the Council should I be minded to allow the appeal. I have not included a suggested condition relating to a plant screen that appears to be part of a previous planning approval².
10. Along with the standard conditions relating to timing of implementation and compliance with drawings, to protect the character and appearance of the appeal property and the local area I have attached conditions requiring

² Planning Ref: 22/03737/FULL

materials that match the existing dwelling, the colour of the proposal, approval of details of the proposed garden trellis.

11. To secure the protection of trees on the site I have attached a condition requiring approval of details of the foundations and all new groundwork and measures taken to protect the trees on and close to the appeal site. To secure the biodiversity and amenity of the appeal site I have attached conditions requiring approval of details of the proposed green roof and hard and soft landscaping and their maintenance.
12. To protect the living conditions of neighbouring occupiers I have attached conditions requiring approval of details of construction methods, hours of construction and noise levels. In the interests of wider environmental standards and safety I have imposed a condition that deals with the environmental risks associated with contamination of the site, which includes safeguarding, monitoring and reporting measures. To mitigate flood risk, I have attached a condition requiring accordance with the Flood Risk Assessment.

Conclusion

13. The appeal is allowed.

Victor Callister

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not 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: P0001 Rev P01; P1001 Rev P01; P1101 Rev P01; P1102 Rev P02; P1103 Rev P02; P2001 Rev P01; P2101 Rev P01; P3001 Rev P01; Arboricultural Survey Impact Assessment & Arboricultural Method Statement by RMT Tree Consultancy Ltd Dated 20 October 2023 (Ref: RMT918) with Addendum Dated 12 March 2024 (Ref: RMT918LAND); Arboricultural Method Statement by RMT Tree Consultancy Ltd Dated 21 October 2022 (RMT769-RevB); 8298-MBP-XX-XX-DR-C-0501 Rev P02; 2948-ZZ-DR-L-102-PL; RMT918 – LTPP Dated March 2024; Structural Methodology Statement, including Desk Study and Flood Risk Assessment by Michael Barclay Partnership Dated October 2023.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Prior to commencement of the development hereby permitted detailed design and method statements relating to the foundations and all new groundwork shall be submitted to and approved in writing by the Local Planning Authority and must be carried out in accordance with the approved details.
- 5) Prior to the commencement of any: demolition, earthworks/piling or construction on site for the implementation of the scheme hereby approved, the applicant or any other party, will be bound by the council's Code of Construction Practice, evidenced by the submission of completed Appendix A checklist from the Code of Construction Practice, signed by the applicant and approved by the Council's Environmental Sciences Team, which constitutes an agreement to comply with the Code of Construction Practice and requirements contained therein. Commencement of the relevant stage of demolition, earthworks/piling or construction cannot take place until the Local Planning Authority has issued its written approval through submission of details prior to each stage of commencement.
- 6) Prior to commencement of any demolition, site clearance or site mobilisation or building work for the development hereby permitted a detailed method statement explaining the measures you will take to protect the trees on and close to the site shall be submitted to and approved in writing by the Local Planning Authority and must be carried out in accordance with the approved details.
- 7) Except for piling, excavation and demolition work, building work which can be heard at the boundary of the site only must be carried out:
 - 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 by the Local Authority.

- 8) The elevations of the development hereby permitted shall be painted and maintained at all times in a magnolia or white colour.
- 9) Prior to installation, detailed elevations and written clarification of new trellising to the side boundary wall of the development hereby permitted and its relationship and means of attachment to the boundary wall shall be submitted to and approved in writing by the Local Planning Authority and must be carried out in accordance with the approved details.
- 10) Prior to its installation detailed drawings of layout and species, a bio-diversity management plan and maintenance regime and construction method statement for the living green roof to the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
- 11) Prior to the first use of any part of the development hereby permitted, the living green roof must be installed and shall be retained and maintained in accordance with management plan for the life of the development.
- 12) Prior to commencement of above ground works detailed drawings of a hard and soft landscaping scheme which includes the number, size, species and position of trees and shrubs shall be submitted to and approved in writing by the Local Planning Authority and must be carried out in accordance with the approved details within 1 year of completing the development (or within any other time limit agreed in writing by the Local Planning Authority) and any trees that are part of the approved planting scheme are removed or found to be dying, severely damaged or diseased within 5 years of planting must be replaced with trees of a similar size and species.
- 13) The development hereby permitted shall be constructed in accordance with the submitted and approved Flood Risk Assessment (dated October 2023), unless otherwise first approved in writing by the Local Planning Authority.
- 14) A detailed site investigation to find out if the building or land are contaminated with dangerous material must be carried out that meets the water, ecology and general requirements outlined in 'Contaminated Land Guidance for Developers submitting planning applications' - produced by Westminster City Council (January 2018). The following investigation reports shall be submitted to and approved by the Local Planning Authority for phases 2 and 3 before any demolition or excavation work starts, and for phase 4 when the development has been completed but before it is occupied:
 - Phase 2: Site investigation - to assess the contamination and the possible effect it could have on human health, pollution and damage to property

- Phase 3: Remediation strategy - details of this, including maintenance and monitoring to protect human health and prevent pollution.
- Phase 4: Validation report - summarises the action you have taken during the development and what action you will take in the future, if appropriate.

15) (1) Where noise emitted from the plant and machinery to be used for the construction of the development hereby permitted will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators), when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the Local Planning Authority. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the plant and machinery to be used for the construction of the development hereby permitted will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved in writing by the Local Planning Authority. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the Local Planning Authority for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for written approval by the Local Planning Authority. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;

- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing LA90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

End of Schedule