



Appeal Decision

Site visit made on 2 December 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal Ref: APP/X5990/W/24/3349048

43 Avenue Road, City of Westminster, London NW8 6BS

- 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 Calford Establishment against the decision of City of Westminster Council.
 - The application Ref is 22/08707/FULL.
 - The development proposed is partial demolition behind retained façade and development to provide a larger single family dwellinghouse comprising of 3 storeys plus basement, rebuilding of existing garage to the rear with basement and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amendment to the description of the proposed development was agreed during the consideration of the planning application. I have therefore used the amended description above, rather than that on the planning application form.
3. The appellant has provided an updated arboricultural impact assessment¹ ('AIA') and drawings. These do not change the proposal before me and are an update to an earlier tree survey carried out in March 2022. As this information was provided at the outset of the appeal and the Council have been afforded opportunity to comment upon it, there would be no prejudice in me taking it into account.
4. The originally submitted Arboricultural Method Statement ('AMS') made reference to the removal of a cypress tree (T14). It has been clarified by the appellant that this was an error and that the cypress tree in question is T15. Where relevant, I have therefore referred to the cypress tree as T15.
5. The revised National Planning Policy Framework ('the Framework') was published on 12 December 2024. I have considered the changes and as they are not material to the proposal, further comments were not sought from the parties. I have, however, determined the appeal having regard to the revised Framework, and where I have referenced paragraph numbers, they relate to the revised version.

¹ RGC/43AVR/AIA/01h

Main Issue

6. The main issue is the effect of the proposal upon the character or appearance of St John's Wood Conservation Area, with particular regard to the loss of trees, the protection of retained trees, and proposed replacement trees.

Reasons

7. The appeal property is a large dwelling located on the west side of Avenue Road. It is common ground that it dates from the early-mid twentieth century and is of brick construction with a pleasing balance to the frontage. A large garden which contains several trees is located to the rear, with the front garden largely made over to hardstanding. The appeal site is located within St John's Wood Conservation Area ('the CA') and is identified by the Council as an unlisted building of merit.
8. The significance of the CA is derived from its strong pattern of tree-lined streets and avenues, which include large, detached villas, semi-detached and terraced dwellings set in generous gardens which result in a low-density suburban townscape. There is a range of architectural styles, however the townscape is consistent in its informality and verdant character. Avenue Road has a character reflective of this significance.

Removal of trees

9. The appeal site contains 15 trees (T1 – T6, T8 – T10, T14 – T15, T17, T19, T20 and T21). There are three offsite trees close to the appeal site (T11, T12 and T18). It is stated that there is no T7 or T13. All of the trees are afforded protection as a result of their location within the CA, however a lime (T6) is also subject to a Tree Preservation Order.
10. The AIA identifies that five trees would be removed in order to facilitate the development; purple leaf plum (T1), crab apple (T3), sycamore (T8), and cypress (T15 and T20). A further ash (T9) would also be removed due to its condition. The Council has indicated that it has no concern with regard to the removal of T3, T8 and T20 subject to suitable replanting.
11. The Council also accepts that T9 is in poor condition and raises no objection to its removal, again subject to suitable replanting. It is highlighted that T9 was shown as being retained on the originally provided tree protection plan ('TPP'), however the appellant has clarified that this would not be the case and I have considered the appeal on the basis that this tree would be removed.
12. The revised AIA indicates that T17, T19 and T21 would be retained, whereas previous iterations have identified their removal or as being unsuitable for retention. The reason for this change is unclear, however I have considered the appeal on the basis of the most recent AIA and on the premise that these trees would be retained.
13. Therefore, the extent of dispute in terms of loss of trees is focused upon the removal of T1 and T15.
14. T15 is a cypress tree located within the front garden of the appeal property, behind the boundary wall and close to the public footway. The tree forms one of a pair of mature cypress trees which, along with the pair of entrance gates

- to the appeal property, demonstrate a pleasing symmetry which frames the main entrance to the house itself.
15. Large mature trees within front gardens are a feature of Avenue Road and the wider CA. The street is wide and also contains some mature street trees. Together, these factors afford the street with a pleasant leafy character.
 16. I saw that the cypress trees at the appeal property are located within a narrow bed and are otherwise surrounded by hardstanding either within the garden, or pavement beyond the boundary. The appellant's assertion that the trees are not thriving is reasonable, and I note that T15 has a co-dominant stem and in arboricultural terms, is not an exemplar specimen. Nevertheless, the size of the tree and its position means that, along with its partner, it contributes positively to the character and appearance of the CA, and has more than communal value as its removal would lead to a noticeable unbalancing of the composition of the house and front garden.
 17. It is proposed to replace the tree with another cypress, although no detailed specification is before me, other than an indication that it would be "large". If of a suitable size, this would mitigate to some extent the loss of the existing specimen. I also acknowledge that such a replacement could be planted to take account of conditions and would benefit from a tree bunker.
 18. However, it has not been shown that such a replacement would be of comparable maturity and scale to the tree that would be removed, and I have no certainty with regards to how long it would be before any replacement specimen would reach a comparable size, if it would indeed do so. Accordingly, the loss of T15 would be harmful to the character or appearance of the CA, potentially in the medium to longer term, albeit this harm would be of a low level due to the provision of a replacement tree of the same species.
 19. T1 is a purple leaf plum, identified by the Council as an attractive tree which makes a positive contribution to the character of the CA. The original AIA stated that this tree is infected with a fungus (*Chondrostereum purpureum*), and this is not disputed by the Council. The updated AIA identifies that this infection has developed since the tree was surveyed in 2022 and has led to a loss in healthy crown. My visit to the site occurred in winter, so I was unable to see for myself the extent of damage that has occurred, nor is the evidence before me sufficient to allow me to agree to the precise extent of it. However, the provided photographs, the veracity of which I have no reason to doubt, clearly indicate that the condition of the tree has worsened over time.
 20. The Council highlights that the fungus is not always fatal and can be controlled by judicious pruning. While this may be the case, even if the fungus was not fatal, it is likely that any remedial works to the tree to address it would reduce its amenity value.
 21. T1 is a small tree. It is not widely visible in public views, being only glimpsed from Avenue Road when viewed between the appeal property and its neighbour, and largely screened by other trees and an intervening boundary wall when viewed from Townshend Road. It is, however, visible from nearby properties, and is clearly an ornamental specimen, but it is one of several trees within an area of verdant rear gardens. I do not doubt that in full leaf, that it contributes to the character of the CA as part of the overall nature of the area as part of the wider group. However, its health indicates that at best this

positive contribution is declining, and at worst, that it will ultimately require removal in any event.

22. Given the presence and retention of a number of other, often larger trees within the appeal site and its surroundings, along with the health of T1, I consider that its removal would have a neutral effect on the character and appearance of the CA.

Retained trees

23. The Council has identified that it has concerns in relation to the effect of the proposal upon several trees which are indicated as being retained within the scheme.
24. The provided AMS acknowledges that work including the installation of the ground source heat pump, basement formation, planter construction and hardsurfacing will be necessary within some root protection areas ('RPAs'). However, the AIA indicates that piling would take place from within the footprint of the proposed basement, rather than outside.
25. The evidence indicates that trial pits have been dug in the areas around the trees close to the extent of proposed works in order to establish the extent of the root systems. On the basis of this evidence, I consider that it is possible that some of the proposed works close to these trees and potentially within RPAs, such as the raised planter close to T12 could be carried out without unacceptable harm to the root systems of these trees, subject to the construction methodology set out in the AIA, AMS and Construction Management Plan ('CMP').
26. It is the case that tree protection measures would be located, in some cases, close to proposed works, however there is no substantive evidence before me to demonstrate that the development could not be carried out around these features once they were in place. Even though there is some minor variance between the tree protection plans within the AIA and the CMP, I am satisfied that there is sufficient detail within the AIA, AMS and CMP when read together to allow me to conclude that it would be possible for the development to take place without unacceptable damage to retained trees.

Replacement trees

27. The appellant has identified five trees to replace those that would be lost as a result of the development. I have addressed the replacement of T15 above. The remaining replacement trees comprise a bird cherry (*Prunus padus* 'Albertii'), field maple (*Acer campastre*), rowan (*Sorbus aucuparia*) and an unspecified species of lime.
28. The council has raised concerns in relation to the species selected and the proposed locations. The scent of the Bird Cherry flowers, or the potential untidy appearance of Field Maple would not render them as unsuitable species. I acknowledge that Rowan tends to thrive in cooler upland areas, however there is no substantive evidence before me to demonstrate that it would fundamentally fail to establish at the appeal site.
29. Having regard to the provided plans, I share the Council's concern in relation to the proposed locations of the field maple, the bird cherry and lime, all of which would be close to existing trees and likely to be heavily shaded by them.

However, the agreement on the final precise location of the replacement trees could be secured through means of a planning condition.

30. I therefore conclude that appropriate replacement trees could be secured such that no harm to the character or appearance of the CA would occur, other than in relation to T15, as set out above.

Heritage balance

31. Overall, having regard to the above and, in particular, my findings in relation to the removal and replacement of T15, I conclude that the proposal would lead to harm to the character and appearance of the CA. This would be of a low level of less than substantial harm.
32. Paragraph 215 of the Framework states that where a development would lead to less than substantial harm to a heritage asset, that this harm should be weighed against the public benefits of the proposal.
33. The proposal would have economic benefits during the construction process; however, these would be time limited. It would also be constructed with regard to mitigating the effects of climate change through energy efficiency and sustainable drainage. Together, these are public benefits to which I ascribe modest weight.
34. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I therefore afford great weight to the less than substantial harm that I have found, and this is not outweighed by the benefits of the scheme that have been identified.
35. The proposal would conflict with Policies 34, 38 and 39 of the City of Westminster Plan. Together and amongst other factors, these policies state that green infrastructure will be protected and enhanced, that trees of amenity value which contribute to the character and appearance of the townscape will be protected, that development will have regard to the preservation and enhancement of the surrounding tree population, and that developments will preserve or enhance the character or appearance of the CA.

Other matters

36. Even if I were to agree that proposal was acceptable in relation to its design, the specification of the basement and its effect upon the living conditions of nearby occupiers, these would be neutral factors and would not weigh in favour of the proposal.

Conclusion

37. The proposal would lead to less than substantial harm to a designated heritage asset, as set out above. It would conflict with development plan as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan in this case. For the reasons given, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR