
Appeal Decision

Site visit made on 12 December 2025

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29th December 2025

Appeal Ref: APP/X5990/W/25/3370778

61 Marlborough Place, City of Westminster, London, NW8 0PT

- 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 HCUK Group against the decision of City of Westminster Council.
 - The application Ref is 25/00899/FULL.
 - The development proposed is Demolition and reconstruction of front boundary wall and entrance arch; removal of mature Tree of Heaven and replaced with a new semi-mature tree; new landscaping including a resin bound pathway; and access ramp.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition and reconstruction of front boundary wall and entrance arch, removal of mature Tree of Heaven and replaced with a new semi-mature tree, new landscaping including a resin bound pathway, and access ramp at 61 Marlborough Place, City of Westminster, London NW8 0PT in accordance with the terms of the application, Ref 25/00899/FULL, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. For brevity I have used the description of development on the Council's decision.
3. The Council's concern relates to the removal of a mature Tree of Heaven and the possible impacts of the proposals on a nearby Ash tree, leading to effects on the character or appearance of the St John's Wood Conservation Area. As such my reasoning is concerned primarily with the effects of the proposals on existing trees. However, in accordance with my statutory duties, I have also included a consideration of the host dwelling, the listed 61 Marlborough Place (No 61).

Main Issues

4. The main issues are the effects of the development on the Grade II listed 61 and 63 Marlborough Place (Nos 61 and 63), including setting, and whether the development would preserve or enhance the character or appearance of the St John's Wood Conservation Area (CA).

Reasons

Heritage Assets – Listed Buildings

5. Numbers 61 and 63 Marlborough place are a pair of semi-detached four storey villa style dwellings constructed around 1840 from London stock brick, with stuccoed detailing, on what was part of the Eyre estate.

6. Number 61's small front garden is mainly paved. The garden is separated from the footway by a low brick wall and a rendered Doric style pedestrian archway. The arch and wall appear to be original to the dwelling and there are similar entrance arrangements nearby. There is a presumption that the wall and archway are curtilage listed and I see no reason to disagree.
7. The dwellings are an early example of semi-detached dwellings on the Eyre estate and their significance is derived from their intact historic fabric, and consequent aesthetic and architectural interest. The pair make a highly positive contribution to the street scene of Marlborough Place and they have some heritage value in their own right as a broadly intact example of a decorative wall boundary and entrance arch, demonstrating the architectural trends of the period. Their significance is derived largely from their functional relationship to the dwelling.
8. There are two mature trees in the front garden, a large Tree of Heaven and an Ash tree. Both are species that can attain a substantial size in favourable conditions. However, the canopy growth of both is constrained by their proximity to Nos 61 and 63. The space available for root growth is also likely to be highly restricted as a consequence of nearby structures. There is nothing before me to suggest that the trees contribute to the significance of the listed buildings.

St John's Wood Conservation Area

9. The Eyre estate was conceived as an arcadian suburb, and the significance of the CA relates principally to the extent of this planned estate and the consistency of the high quality and attractive 19th and 20th century built form. The area around No 61 is distinctive as a consequence of the architectural coherence and aesthetic values of its street scene, with large villas set behind modest front gardens, a low density building pattern, and the preponderance of mature trees of varying size and species.
10. The built form of Nos 61 – 63 makes a clear and very positive contribution to the street scene of Marlborough Place. The mature trees in No 61's front garden also contribute to the prevailing sylvan character of the street scene. The significance of the CA arises from the broadly consistent architectural and attractive built form, wide streets and the presence of mature vegetation. Although this is generally planted in front gardens rather than as street trees, the vegetation creates a verdant setting and attractive foil for the fine buildings.

Proposals and effects

11. The development includes the rebuilding of No 61's boundary wall and arch, as well as new paving. The wall and arch are displaced and leaning towards the footway to a significant degree. A structural report¹ states that pressure from the Tree of Heaven is directly responsible for the displacement, and that the situation has deteriorated since a report two years earlier. The covering letter notes that the structures are dangerous, beyond repair and should be taken down as a matter of public safety.
12. The boundary wall is acting as a retaining structure with garden levels behind the wall being higher than the footway. I noticed that the tree's substantial stem is a few centimetres from the rear of the wall, and I see no reason to disagree with the

¹ Michael Chester and Partners, August 2024

specialist evidence from both structural engineers and an arboriculturalist, that this tree is the primary cause of the wall's lean and instability.

13. Moreover, given the proximity of the wall and the likelihood that the tree will continue to grow and put pressure on the wall, I see no reason to dispute that the tree should be removed in order to repair the wall. The Council advances the argument that insufficient has been provided to substantiate the claim that the Tree of Heaven is responsible for the wall's lean. However, more intrusive surveying would be likely to expose and damage its roots. Whilst it may be the case that the Tree of Heaven is not primarily responsible for the condition of the wall, on the basis of what is before me, I find this suggestion highly improbable.
14. The Tree of Heaven is an invasive species that can grow to statuesque proportions. However, this tree is leaning, has dead wood in the upper crown, and the tree survey shows it has a distinctly one-sided canopy. Its overall form is constrained by proximity to the dwellings, and its root growth is constrained by the ground levels and nearby structures including a lightwell. What would be an impressively large and symmetrical tree in a more spacious setting is already constrained by the limited space available. Furthermore, its trunk girth is steadily increasing and will continue to exert pressure on the nearby wall, partly as a consequence of the difference in ground levels between the shrub bed and the footway, which gives the trunk additional leverage.
15. The tree's removal would result in some loss of tree cover on this side of Marlborough Place. However, it does not have a particularly fine form, and there are many other mature trees nearby. The overall impact on visual amenity in the street scene would be minor. Moreover, even if there was not compelling evidence that it has contributed to the boundary wall's instability, I would conclude that it is very close to the end of its useful life. In this regard, I agree with the appellant's arboriculturalist that it is unsuitable for this location.
16. As such, although I acknowledge that design solutions may be available that would enable the retention of the Tree of Heaven, its age, morphology and condition does not warrant that additional expense. Moreover, although the Council states that the wall does not have to be replaced to match its current original form, it is a part of the listed building. Nor is there anything before me to suggest that the Council would accept another design. I also note that the Council's heritage officer does not find harm arising to the CA from the loss of the tree. As such, I give greater weight to the continuance of No 61's boundary treatment and functional relationship with the host dwelling than I do to accommodating the future growth of this particular tree.
17. Consequently, taking the development as a whole, I find that the minor adverse effects of removing the Tree of Heaven would be outweighed by the benefits to designated heritage assets arising from the development as a whole, and the contribution that the restored boundary wall and arch would make to the CA and the listed building. I find no harm in relation to the proposed re paving works.
18. The Council has raised a concern that the nearby Ash tree might be damaged during the development. However, I am satisfied that a tree protection plan could mitigate those impacts. In any case, as with the Tree of Heaven, this is also a tree that is growing in what might be considered to be an unsuitable position in the longer term. Even if the development resulted in the loss of this tree, I would still

conclude that the rebuilding of the boundary wall and arch makes a greater contribution to the CA and the listed building.

19. Moreover, the appellant has volunteered to plant a replacement. Given the age class of trees in the vicinity this would both replace the contribution the Tree of Heaven makes to the CA in time, and also provide some age diversity in the area.
20. The description of development refers to a semi- mature tree but in my experience, these are difficult to establish. In this case I am satisfied that a smaller specimen would be appropriate, and that the species should be a variety of *Sorbus aucuparia*, as suggested by the appellant's arboriculturalist. This would grow at a moderate rate and remain appropriately sized for its context, as well as contributing to the character and appearance of the CA.
21. I accept that there is a tension between the cited policies, as Policy 34 of the City Plan (CP) requires the protection of green infrastructure and CP Policy 38 requires trees that make a positive contribution to the townscape to be protected. There would be some minor conflict with these policies notwithstanding that I find the tree to be of moderate quality. However, in this case I find that CP Policy 39, which is concerned with heritage assets, should carry more weight and that restoring the boundary treatment to No 61 in what at least appears to be its original form should outweigh the minor harm to the character and appearance of the CA. There would be no overall conflict with CP Policy 39.
22. The Council has not raised a concern in relation to any other parts of the development, which in any case have listed building consent. I see no reason to disagree.

Other matters

23. The Council 's appeal statement also notes that the arboriculturalist's report does not comply with the requirements of BS 5837:2012. However, the information before me is very detailed and contains sufficient information to enable me to make a decision.

Conditions

24. The Council has suggested conditions which relate entirely to the tree. However, this is a permission for all the works set out in the description, As such, I have imposed the standard time and drawing conditions for completeness.
25. I have also imposed conditions with regard to the submission of a tree protection plan for the ash tree, as well as a condition requiring a replacement tree. This to safeguard the character and appearance of the CA. I find the suggested requirement for supervision, monitoring and reporting to the local planning authority during the works to be disproportionate. As such, I have amended and simplified the Council's suggested wording in the interests of brevity and best practice, to ensure that the conditions meet the required six tests and are proportionate to the development hereby approved.

Conclusion

26. The appeal is allowed.

A Edgington INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings:
 - Be 01.201 – Site Plan - Proposed
 - Be 01.202 - Plan Layout – Proposed
 - Be 01.203 – Boundary Wall Existing
 - Be 01.202 - Arch Details
 - Be 01.102 - Plan Layout Existing
 - Be 01.103 – Boundary Wall Existing
 - Be 01.100 - Site Location Plan
 - Be 01.101 - Site Plan Existing
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained Ash tree (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained Ash Tree shall be carried out as approved.
- 4) A scheme for the planting and maintenance of one replacement tree, extra heavy standard, girth 12-24 cms and container grown nursery stock, shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include position of planting and maintenance details. The works shall be carried out in the first planting season (November to March) following the completion of the building works hereby approved. The replacement species shall be a variety of *Sorbus aucuparia*.
- 5) If within a period of five years from the date of planting of that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or becomes in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.