



Appeal Decision

Site visit made on 6 January 2026

by **L Clark BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th February 2026

Appeal Ref: APP/X5990/Z/25/3372811

5 South Molton Street, City of Westminster, London W1K 5QE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
- The appeal is made by Field & Lawn against the decision of City of Westminster Council.
- The application Ref is 25/05336/ADV.
- The advertisement proposed is 6 x 7m(h) x 2.4m(d) Cone Tree with Star.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description on the decision notice (DN) refers to the period of time for which the proposed trees would be displayed as being 27 October 2025 till 12 January 2026. However, the application form specifically states the period sought as being 27 October 2024 to 30 January 2026. The application form is dated 2025, and as permission cannot be predated, I have taken the year 2024 as a mistake and taken it to be 2025 in my assessment. Furthermore, with regard to the Council's amended date of 12 January 2026, I have nothing before me to indicate whether the appellant agreed to any such change. I have therefore taken the expiry date to be 30 January 2026 as originally sought.
3. The appeal site is located within an Area of Special Control of Advertisements. It is also set within Mayfair Conservation Area (the CA).
4. The appellant's plan¹ submitted alongside their application identifies the location of six trees, with No 6 stated as being outside 93 New Bond Street. However, the Council contend that this would in fact be outside 65 South Molton Street. From evidence before me and observations on site, and in the absence of anything to the contrary from the appellant, I have taken the location of tree No 6 to be outside 65 South Molton Street.
5. The appellant has requested that I consider amended locations of four trees in the determination of their appeal. Whilst the address of the trees remains the same, the numbering of them differ from that in their application. I have therefore taken the location of each tree from the address given, with the exception of tree No 6, where I have used 65 South Molton Street as outlined above. I have considered the proposed changes, taking into consideration the tests on Holborn Studios Ltd,² and I am satisfied that it would not be unfair not to reconsult on the changes or that my acceptance of the revisions would deprive those who were entitled to be

¹ SMS INSTALL TREE PLAN_2024

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

consulted on the changes of that opportunity, given the nature and extent of the changes proposed. I have therefore determined the appeal on the basis of the updated locations of four trees and original location of the two others.

6. The Council have drawn my attention to Part D of the appellant's application form for advertisement consent. Whether or not it contains inaccuracies has limited weight in my assessment, as the application was validated and subsequently determined by the Council. Any inaccuracies fall outside the scope of my assessment, which must focus on the planning merits of the appeal proposal.
7. The Council have also drawn my attention to the fact that the area of South Molton Street between each building frontage is public highway. Based on the evidence, I have no reason to take a different view.

Main Issue

8. The main issue is whether or not the proposal would provide suitable measures to manage public safety between the hours of 07:00 and 11:00, Monday to Saturday.

Reasons

9. South Molton Street contains a number of retail units and eating establishments. The street is pedestrianised except between the hours of 7:00 to 11:00, Monday to Saturday, when it is open one-way for vehicle access.
10. I saw that the surface of South Molton Street, whilst comprising a predominantly flush finish, had three distinct areas which were marked out by a different edging material. All areas were of a similar tone, with the central area comprising smaller blocks and the two outer areas larger blocks.
11. At the time of my site visit (mid-afternoon), South Molton Street was pedestrianised and was fairly busy. I saw that several commercial units had pavement cafes to the front, which were open and in use. There were also relatively long sections of construction hoarding erected to the front of several commercial units, which extended for some distance. Both the pavement cafes and construction hoardings extended either up to, or close to, the central demarcation line and retained a mainly clear central area.
12. From the evidence before me, the majority of the paved area on South Molton Street is a dedicated highway. Given that there are three distinct areas, the outer areas would, in my mind, most likely be used as a dedicated footway between the hours of 7:00 and 11:00, Monday to Saturday when the street is open to vehicular traffic.
13. At the time of my visit, I saw that pedestrians had little choice but to walk within the central section due to the presence of construction hoardings and pavement cafes overlapping. Whilst the pavement cafés are not permanent fixtures and their presence is conditional, with tables and chairs removed between the hours of 7 am and 11 am, the construction hoarding would likely be a permanent fixture until works are completed.
14. The appellant's technical data for the trees shows that the base of each tree would measure approximately 2.4 metres and incorporate a height of approximately 7.15 metres. The appellant's marked-up imagery shows that the trees, due to their size, would in several locations utilise almost the full footway. Whilst some areas of the

footway would be wider than others, the narrowing of the footway would nevertheless present pedestrians with little choice but to move to avoid conflict with them. In these instances, pedestrians would likely be required to move out of the footway and cross the dedicated highway, zigzagging their way along South Molton Street to access a wider footway. However, in some instances, there would also be an overlap between the trees and construction hoarding, and in these instances, pedestrians would have little option but to walk in the dedicated highway. In such instances, this would create an unattractive and potentially unsafe environment for pedestrians, which could put them in direct conflict with moving vehicles.

15. With regard to the tree outside No 65, the appellant's marked-up imagery shows that this tree would be within the area used as highway. I saw that the footway closest to No 65 is predominantly restricted by existing street clutter; however, there was an area between the side of the telephone box and parked bicycles where pedestrians could walk without direct conflict with vehicles. The appellant's imagery shows that the proposed tree would largely obstruct access to this strip. Therefore, the presence of a tree in this location would likely restrict pedestrian access and most likely direct them around the tree and into the highway.
16. From the evidence before me and observations on site, I am not persuaded that the location of the proposed trees would enable pedestrians to walk or wheel within the footway for the entire length of South Molton Street during the hours of 07:00 and 11:00 Monday to Saturday.
17. As such, there would be conflict with Policies 24, 25 and 43 of the City of Westminster's City Plan 2019 – 2040, which collectively seek to prioritise and improve the pedestrian environment, and ensure that the public realm is safe, attractive and accessible to all. There would also be conflict with guidance set out in Westminster's Streets and Spaces, Public Realm Guidance Supplementary Planning Document (August 2025), which gives priority to people on foot or wheeling.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

L Clark

INSPECTOR