

Planning committee report for Summer Newsletter 2011

Westminster City Council has consulted the Society on 188 applications in the past six months, 49 of which we have reviewed in July alone. Planning committee members and long term St John's Wood residents Diana Eyre (trees and historic landscapes), John Villiers (chartered surveyor), Virginia Newman (architect) and Stephen Higgins continue to donate an enormous amount of their time and professional expertise to the Society. Despite being overloaded by current work commitments and the arrival of baby Giorgietta Ungar, architects Robin Snell and Peter Ungar also continue to be available to comment on complicated or contentious applications.

Basements

The Society's planning committee is fully committed to doing all we can to preserve the character, gardens and historic buildings of the St John's Wood Conservation Area. We are, however, constantly thwarted by the lack of adequate planning policies to support our objections to excessive basement applications which are submitted, more often than not, by developers who have little or no interest in the area. The Society and residents have consistently raised strong objections to unacceptably excessive basement developments but Westminster Council has granted planning permission for over thirty such developments within our Conservation Area in the last year. Unfortunately current planning policy does not provide case officers with robust grounds for refusal which can be successfully upheld on appeal. Not only do these works take a very long time to carry out but on Acacia Road and Hamilton Terrace in particular, several schemes are being developed either simultaneously or consecutively and the situation has become intolerable for an ever increasing number of SJW residents. We are not against anyone improving and extending their homes in the traditional manner such as modest rear extensions which are not disproportionate to the existing building, but the new brand of home extension in the shape of vast excavation work needs addressing urgently. Extensive garden excavations mean that the opportunity for mature tree planting is lost forever. The installation of the major plant required to heat swimming pools, ventilate and air-condition large underground rooms is unsustainable and fails to comply with current government policy on sustainability. The removal and dumping of tons of spoil is also unsustainable and it is impossible to assess the long term impact these excavations will have on the water table and drainage.

As mentioned in previous reports, the Society has taken every opportunity to try to effect change to existing basement policy and we are currently supporting the efforts of the "Considerate Basement Development Group", a collective group of residents' associations, property owners and Councillors in the City of Westminster and the Royal Borough of Kensington and Chelsea. In June 2011, the Chairman of the Considerate Basement Development Group, Dr James Thompson (Kensington and Chelsea Residents' Association) submitted a letter to Eric Pickles, Secretary of State for Communities and Local Government. The key points of this letter were as follows.

1. **Permitted Development Rights for Basement Excavations** should be removed from the General Permitted Development Order to allow safeguards to be put in place via the planning process to protect neighbours. One of the safeguards would be to allow local authorities to impose a code of conduct jointly agreed amongst the owners, residents and councillors. It would also give local authorities the opportunity to limit basement extensions in size and

depth or even ban them if this reflected the views of the neighbourhood under the Localism Bill.

2. **Better Guidance for Inspectors at Appeal.** Government needs to issue guidance to inspectors on what constitutes reasonable development under buildings and back gardens so that concerns about their impact on conservation areas, biodiversity, drainage and future tree planting are not ignored.
3. **The Party Wall Act 1996** predates this type of development and needs to be updated to better protect neighbours. It was never envisaged that double or triple basements would be proposed in the middle of Victorian terraces. The Party Wall Act should be updated to give more protection to residents to include construction methodologies, and independent inspections of the development on behalf of affected neighbours, at the expense of the applicant, during construction.
4. **Building Regulations** fail to protect the interests of neighbours because building control officers cannot insist on the construction methodology being submitted and agreed in advance of excavation work taking place. In addition the deregulation of building control has resulted in developers using approved inspectors who do not have the local knowledge needed to oversee such work in historic areas.
5. **The Localism Bill** includes a provision that developers consult on major developments before making a planning application and show that they have taken comments into consideration before submitting the application. This clause is welcomed but it should be expanded to include all basement developments in urban settings. It has become clear that early dialogue with neighbours ensures that there is considerably less chance of excavation works causing problems, and the Localism Bill could help if this small change was made.

Enforcement

The Planning Committee has also endeavoured to take a more proactive role in enforcement and to this end we would be grateful if members would contact us at StJohnsWoodSoc@aol.com to report any breaches to planning control of which you may be aware. We are only as good as the eyes of our members.

I have included below an informative article on planning enforcement that has been very kindly written for this Newsletter by Roald Piper, Team Leader of the extremely hard working Planning Enforcement Team at Westminster City Council.

“Planning enforcement in Westminster including the St John’s Wood Society area remains extremely busy and expectations of the service remain high. The Planning Enforcement Team received 2295 reports of unauthorised development in 2010/11 (i.e. from 1 April 2010 to 31 March 2011) and the number already received this year indicates that a similar number will again be received. This is an exceptional number of complaints to receive in a single year and is markedly higher than the number of complaints received in the previous 3 years. As a comparison:

- *In 2007/08 - 2107 complaints were received.*
- *In 2008/09 – 2108 complaints were received.*
- *In 2009/10 – 2157 complaints were received.*

The Planning Enforcement Team is currently actively investigating almost 3300 breaches of planning control. Between 1 April 2010 and 31 March 2011 the Team

resolved 2377 breaches of planning control of which 939 were resolved via direct action. During this same period authority was obtained to issue 156 enforcement notices and 154 planning contravention notices.

In addition, the Planning Enforcement Team received 37 appeals against enforcement notices served. The Planning Inspectors appointed on behalf of the Secretary of State have elected to dismiss 71 per cent of the appeals determined within this period, and have upheld the requirements of these enforcement notices.

Within the last year the Short-term Let Team, comprising four planning officers when fully staffed, has been disbanded due to the need to make savings. This specialist Team had been operating in excess of 12 years and was specifically formed to alleviate short-term letting in Westminster. The letting of properties on a short-term basis has social and economic ramifications for the Council and its residents.

Two Senior Planning Enforcement Officers have also left the Team and it is understood that these positions are not being filled at the current time despite the increase in the number of complaints being received by the Team. Clearly the current position is not sustainable long term and consideration may have to be given, in the not too distant future, to the prioritisation in resolving certain breaches of planning control at the expense of others.

The Town and Country Planning Act 1990 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) define what constitutes a breach of planning control and this can essentially be broken down into 5 elements:

- “Operational Development” – the carrying out of building works without planning permission.
- Carrying out a material change of use of land without planning permission.
- Non-compliance with a condition subject to which planning permission has been granted.
- Display of an advertisement without express advertisement consent.
- Carrying out works of alteration or demolition to a listed building without consent or contrary to a condition.

Having regard to the foregoing, popular areas of complaint from a staggering range include:

- Air conditioning units and associated noise.
- Ductwork and other plant associated with restaurants, takeaways, bars etc and the associated noise and smells.
- Satellite dishes located in conservation areas and on listed buildings.
- Unauthorised advertisements of every size and type, ranging from garish neon signs to flags and banners, poster billboards, hoardings, shrouds (large scaffold banners) etc.
- Works to listed buildings ranging from demolition to insertion of modern glazed windows to fine grained details including loss of historic fireplaces, repainting of facades in the “wrong colour”, alarm boxes, CCTV cameras etc.
- Roof terraces with associated trellises and fencing, loss of privacy, overlooking issues etc.
- Changes of use – shops to offices/restaurants/takeaways, also bars changing to nightclubs.
- Basement, roof and rear extensions which do not benefit from “permitted development” rights.
- Short-term letting.

On a positive note, the City Council has secured funding to deal with the additional pressures it will face in the build-up to, during and after the Olympics and Paralympics. It is hoped that as part of the additional funding secured, the Planning Enforcement Team will employ additional planning officers on a 12 month contract with the sole purpose of

alleviating short-term letting across the borough. It is also proposed to employ two senior planning officers on a 12 month contract to assist with other general Olympic and Paralympic planning enforcement investigations and to assist in determining applications associated with these events.

The Planning Enforcement Team will continue to strive to provide an excellent service for businesses, residents and visitors in Westminster. I would also like to remind members of the St John's Wood Society that potential breaches of planning control can be reported electronically via the City Council's website at www.westminster.gov.uk under the "Planning Enforcement" element. Alternatively complaints can be made via telephone on 020 7641 2513."

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