



Appeal Decisions

Site visit made on 3 February 2020

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal A Ref: APP/X5990/W/19/3238770

Flat 4, 10 Devonshire Terrace, London W2 3DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Yi Jean Chow against the decision of the Council of the City of Westminster.
 - The application Ref 18/05927/FULL, dated 10 July 2018, was refused by notice dated 9 April 2019.
 - The development is the internal refurbishment of flat with replacement kitchen and bathroom facilities. Partitioning to form bedroom within flat. Replacement of three existing windows.
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Appeal B Ref: APP/X5990/Y/19/3238769

Flat 4, 10 Devonshire Terrace, London W2 3DN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Yi Jean Chow against the decision of the Council of the City of Westminster.
 - The application Ref 18/04979/LBC, dated 7 June 2018, was refused by notice dated 9 April 2019.
 - The works are the internal refurbishment of flat with replacement kitchen and bathroom facilities. Partitioning to form bedroom within flat. Replacement of three existing windows.
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Decisions

Appeal A Ref: APP/X5990/W/19/3238770

1. The appeal is dismissed.

Appeal B Ref: APP/X5990/Y/19/3238769

2. The appeal is dismissed.

Preliminary Matters

3. The proposal appeared to be complete at the time of my site visit. Divergence between the described and implemented works is discussed below.
 4. As the proposal concerns a listed building in a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
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Main Issues

5. The Council does not object to the refurbishment of the flat, save for the effect of the UPVC material of the three windows which have been replaced. The main issues are therefore:
- whether the proposal would preserve the grade II listed building 1-19 Devonshire Terrace, and any of the features of special architectural or historic interest that it possesses; and,
 - whether it would preserve or enhance the character or appearance of the Bayswater Conservation Area (CA).

Reasons

The significance of the listed building and the CA

6. Flat 4 is located in the space between the resplendent frontage of a mid C19 terrace of houses and the mews behind it. The house appears to have been converted into flats. There is scant information in the application on the historical development of the building or its significance, but the flat, or its position, appears to have once been part of the service wing to the house.
7. Like the mews, this section behind the houses has developed since the terrace was built and incorporates flat roofs and modern building components; forms and materials which have very limited affinity with the special architectural character of the building, and which reduce their place in the hierarchy of the forms and significance of the listed building. Though the discrete position of flat 4 limits its conspicuousness, the development between the terrace and the mews nonetheless has a direct bearing on the historic interest and architectural character of the building, particularly the tall, rear façade of the terrace, and most evidently in the design and materials of its openings.
8. The CA is significant for the architectural unity of the tall, white stucco-faced and brick Italianate terraces, the open spaces and the quieter informality of its mews. Though the CA includes buildings of different scales and design, the coherence of the architectural language of the buildings gives the streets and spaces of the CA a distinctive character.

The effect of the proposal on the listed building

9. Window W1 is a small, high-level opening in the hall of the flat. The size of the opening is unlike the historic windows in the rear elevations of the terrace. Nonetheless, it is directly opposite a more traditionally designed timber sliding-sash window in the wall opposite, and it is at ninety degrees to another in the back wall of the terrace, directly beside the wall in which this opening has been formed.
10. The black gasket, the half-round mouldings, the prominent mitred joints, the thick face profiles and sections, and the machine-like finish of the UPVC of window W1 appear markedly at odds with the characteristic timber windows at the back of the building which are a critical part of the architectural language of the building.
11. Windows W2 and W3 share a similar relationship to the vertical range of generally sliding-sash, timber windows in the back wall of the house, at ninety degrees to these openings. Though the windows in other openings in the light-

- well onto which windows W2 and W3 open include steel sectioned frames, and plastic rooflights, the overwhelming majority of the windows are white-painted timber, including the unaltered windows in this flat.
12. Because of their proximity to the vertical ranges of timber windows in the back wall of the building, and the contribution the openings as a whole make to the architectural character of the building, the design detailing and material characteristics of the replacement windows undermine the significance of the listed building and its special architectural interest.
 13. The appellant has suggested that the windows do not harm the listed building because they are hardly noticeable. However, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
 14. The replacement UPVC windows conflict with policies S25 and S28 of the Westminster City Plan consolidated with all changes since November 2013 (November 2016) (WCP) which seek the conservation of heritage assets and the highest standards of architecture. It would run against saved policies DES1, DES5 and DES10 of the City of Westminster Unitary Development Plan 2007 (UDP), which reflect those strategic aims, and which require development of a listed building to preserve, restore or complement its features of special architectural or historic interest.
 15. Paragraph 193 of the National Planning Policy Framework 2018 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Though I find the harm to be less than substantial, this does not equate to a less than substantial planning objection, particularly so where the statutory test is not met.

The effect of the proposal on the CA

16. I have identified harm to the special architectural interest of the listed building. I have taken into account that the windows have limited prominence, notably in views from neighbouring windows looking onto these lightwells. However, the listed building contributes significantly to the sum of architectural and historic interest of the CA, particularly the materials of the windows of the buildings within it, including their rear elevations.
17. I acknowledge the degree of harm to the significance of the CA is very limited. Nonetheless, the Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA, against which test, the effect of this proposal on the appearance of the CA, fails.
18. I have been referred to an example of a replacement window in UPVC in Westbourne Gardens. Apart from that opening having an exposed concrete lintel over it, making it a quite different context, I have not been provided with the environment around that window or the details of any application, so I am unable to draw any parallels to the circumstances in this case.
19. The proposal does not preserve the appearance of the Bayswater Conservation Area. It conflicts with WCP policies S25 and S28, and with saved UDP policies DES1, DES5, DES9 and DES10 which require development to maintain the

character of existing buildings, and to preserve or enhance the character or appearance of conservation areas.

Other Matters

20. The new windows are indicated as having frosted glass, however only window W2 appears to have incorporated this. The opening of window W1 has a high cill and opens from a corner of a small entrance hall. The angle of view to neighbouring rooms through the windows in the return and flank wall opposite is very limited. Given the cill height, the position of window W1, and its location serving a hall, the risk of loss of privacy through overlooking into the neighbouring rooms is not harmful to the living conditions of surrounding occupiers.
21. There is a very small window in the wall opposite window W3, however it is across a lightwell and a substantial distance to one side and higher than window W3. There is no risk of loss of privacy from overlooking into this window, or the other windows surrounding W3 which are oblique to it, and sufficiently distant from it, to prevent loss of privacy by overlooking.

Planning balance

22. The proposal would fail to preserve the special architectural interest of the listed building and the appearance of the CA. I give this harm considerable importance and weight in the planning balance of these appeals. Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
23. Improved thermal efficiency may reduce carbon emissions and have some public benefit, however, there is no evidence that the same benefit could not be achieved by more sensitively selected window materials. In any event, the marginal public benefit does not outweigh the harm identified above. In the absence of any defined public benefit, I conclude that the proposal would fail to preserve the special architectural interest of the grade II listed building and the appearance of the CA, contrary to the requirements of the Act, paragraph 192 of the Framework and the policies and objectives of the development plan.

Conclusion

24. For the above reasons and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Patrick Whelan

INSPECTOR