

Appeal Decision

Site visit made on 14 December 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Appeal Ref: APP/X5990/Y/21/3277072

Flat 1B First Floor, 80 Gloucester Place, London W1U 6HL

- 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 Helen and Martin Green against the decision of City of Westminster Council.
 - The application Ref 21/00457/LBC, dated 26 January 2021, was refused by notice dated 16 May 2021.
 - The works proposed are described as 'Internal alterations to the existing flat to include the removal of the non original mezzanine, kitchen and bathrooms. The new installation will restore the historic features (cornices, picture rails, skirting and architraves) and contain ancillary functions within smaller joinery units set below the existing picture rail. This will include new partitions to separate the bedrooms. Externally, the missing rear balustrade is to be reinstated'.
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Decision

1. That part of the appeal that relates to internal works at first floor level including the removal of the mezzanine level is dismissed. That part of the appeal that relates to installation of a new balustrade on the rear first floor level to allow for the creation of a balcony is allowed and listed building consent is granted for installation of a new balustrade on the rear first floor level to allow for the creation of a balcony at Flat 1B First Floor, 80 Gloucester Place, London W1U 6HL in accordance with the terms of the application Ref 21/00457/LBC, dated 26 January 2021 and the plans submitted with it, subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) The works in relation to the proposed balustrade and existing balcony must match existing original work in terms of the choice of materials, method of construction and finished appearance.

Procedural Matters

2. I have used the proposal's description as set out on the Decision Notice as it better focusses on the works involved.
3. As a listed building appeal, it is not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, it does not need to be determined in accordance with the development plan. This is further confirmed by the lack of a requirement in section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have regard to the development plan when determining applications and appeals for listed building consent. The policies referred to by the Council are therefore material considerations only.

4. The Council has confirmed that the policies from Westminster's City Plan (November 2016) and the Westminster Unitary Development Plan (January 2007) referred to in the Decision Notice have been superseded by policies from the new City Plan 2019-2040 (Adopted April 2021) (LP). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, the Council suggest that Policy 39 of the LP is now the policy relevant to the determination of the appeal. The appellants are aware of that policy and have commented on it in the appeal.
5. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party, particularly as the revisions do not alter the policies upon which this appeal turns.

Main Issue

6. The main issue is whether the proposal would preserve a Grade II listed building, known as '80-90, Gloucester Place W1, 118, Crawford Street W1', and any of the features of special architectural or historic interest that it possesses.

Reasons

Significance

7. The appeal concerns a first floor flat within 80 Gloucester Place, which is part of a much larger Grade II listed building, which extends north and includes 118 Crawford Street. It was originally built as a townhouse in the early 19th Century as part of the Portman Estate Development. The flat is currently subdivided with two principal rooms, at the front and rear, and ancillary rooms between.
8. The front room is the larger and imposing of the two rooms and it is likely that it had greater significance given the extent of articulation and its grand proportions, the size and orientation of its French door openings, the extent of the balcony across the frontage of the building and the elegant cast iron balustrades that enclose it. However, the presence of the curved bay, its tall French doors and timber detailing surrounding that matches that at the front, and presence of an external balcony, also demonstrates that the rear room would also have been an important space within the building, albeit the balcony enclosure has been removed and replaced with rails across the doors. The rooms were originally joined by a wide opening with large doors¹. This suggests that they will have had a high level of significance when No 80 was a townhouse, either as formal drawing rooms or spaces for entertaining. Historic England guidance², also confirms that this type of layout of housing, two rooms deep, is commonplace in Georgian terraces, particularly in London.
9. The floorplan layout of the appeal property has been altered over time to meet changing living requirements, with its subdivision within No 80 first recorded in the late 1930s when it was converted into two separate smaller serviced suites arranged either side of the spine wall. The overall building was listed in 1970, along with a large part of the terrace, following alternative subdivisions not so dissimilar to earlier interventions. It was not until the 2002³ listed building consent that the rooms were subsumed into one flat and partitions within the

¹ Illustrated in the appellants' Statement of Case and Design, Access & Heritage Statement.

² Conserving Georgian and Victorian terrace housing: A Guide to Managing Change.

³ LBC Reference: 01/09755/LBC.

rooms removed. At the same time, though, the sleeping area on the mezzanine level, together with its staircase, landing and balustrade, and full-height storage areas and enclosures to the cornices were added to the spine and righthand walls of the front room. This also concealed picture rails, skirting boards and the original door opening to the front room. Bathrooms serving the mezzanine and rear room, together with storage, were also added within a full-height subdivision in the rear room.

10. While the 2002 alterations better revealed the significance of the overall floorplan layout of the first floor, with fewer subdivisions, its legibility remains somewhat confused. A new vertical pattern of circulation and subdivision was introduced in the front room, the size of the rear room continued to be reduced to accommodate ancillary rooms and storage and a corridor, with a lower ceiling height, was created between the rooms.
11. Despite the nature and extent of the latest subdivisions to the front and rear rooms and their effect on the understanding of the legibility of their floorplan layout and status within the overall building, in so far as it relates to the appeal before me, the significance of the listed building is still to be found in the plan form of the two original and generously proportioned rooms within the flat, and the surviving decorative architectural features, including cornicing and chimney pieces. In particular, the former provides evidence of how the building has been used, including originally as a townhouse.

The proposal

12. A comprehensive Schedule of Works is included in the appellants' Design, Access & Heritage Statement (DAHS), but I refer to the principal works here.
13. Non-original subdivisions would be removed, including the mezzanine, fitted kitchen beneath, and the bathrooms and storage. A replacement freestanding island would be created to the right of the front room, with storage added to the wall beneath the picture rail.
14. Replacement storage and bathrooms would be contained within a 'block' structure projecting either side of the spine wall. The projection into the front room would be similar to the position of the cabinets in the fitted kitchen, with most of the footprint predominantly within the rear room. On both sides it would stop short of the change in the plane of the wall around the fireplaces and the top of the 'block' would be no higher than the picture rail.
15. Beyond the storage and bathrooms, what remains of the rear room would be subdivided to create master and guest bedrooms, with a full-height partition situated centrally between the windows in the curved bay. The top section of that partition, above picture rail height, would be mirrored to reflect the ceiling, cornice, and curved bay. A further partition, across the righthand portion would enclose the guest bedroom and circulation space in the hallway.
16. The ceiling in the hallway would be returned to its full height, with a glass door added to the opening to the front room. The original door from the communal staircase, and architrave, would be exposed and fixed shut.
17. In respect of existing architectural details within the flat, the DAHS suggests that cornices, picture rails, architraves and skirtings would be exposed and where they are missing, including on new partitions, they would be reinstated.

18. To the rear of the flat on the external stone balcony, a new painted iron balustrade designed to match that found to the front balustrade would be installed at its edge.

Effect of the proposal

19. The extent of the proposed subdivisions in the rear room would go beyond the current arrangement, erode the plan form of the room and be inconsistent with its origins as a grand drawing room or entertaining space that acted as a continuation of the larger space within the front room. Moreover, the architectural features within the room including curved bay and the tall French doors and timber surrounds therein would no longer be appreciable as a whole and their effect on the room would be considerably diluted. The use of a horizontal mirror, on either side of the partition, would only serve as an architectural illusion, as its reflective properties and the presence of the partition beneath would still be apparent. While their nature would ensure that the partitions could be reversible alterations, they are likely to be in situ for some time. These aspects of the proposal would therefore be harmful to the legibility and understanding of the listed building.
20. The design concept behind the inclusion of all ancillary functions in one 'block' straddling the spine wall, is that it would be stepped into to access its functions, like a piece of furniture. This is not without merit and, given their proposed form, it is likely that the block would have a lighter appearance.
21. The intrusion of the 'block' into the rear room would be most significant, given that it is the smaller room and more of the 'block' would be situated within it. Nevertheless, more of the left-hand wall and ceiling would be visible than with the current arrangement, albeit the less of the ceiling would be visible than in the front room, as the 'block' would occupy proportionately more of the spine wall in the rear room. Returning the ceiling height of the hallway to its true position would also allow the height of this part of the room to be appreciated.
22. The interruption to the floorplan of the front room would be much more limited than the intrusive mezzanine and other modern accoutrements associated with the 2002 scheme. Due to the size of the room, more of the architectural details reinstated, including cornices and picture rails above the 'block', would be visible around the room. The front room would therefore be subject of subordinate and discreet interventions and the reinstatement of original features, including visibility internally of the communal hallway door.
23. Although the other aforementioned alterations proposed to the front and rear rooms would, in themselves, better reveal significance of both rooms, they could not be achieved without the other more harmful alterations. The new partitions in the rear room would be introduced to create two bedrooms, principally due to the proposed removal of the mezzanine, which currently houses a second sleeping area. The positive effect of the other interventions would therefore be severely diminished.
24. The aspect of the proposed works concerning the removal of the external bars across the rear windows and their replacement with an iron balustrade, designed to match the railings found at the front of the building, would make a positive contribution to the character and appearance of the listed building.

Public benefits and the conclusions on the main issue

25. The statutory duty in Section 16(2) of the Act is a matter of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Meanwhile, paragraph 199 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that this should have a clear and convincing justification.
26. The proposed internal works would be harmful to the special historic interest of the Grade II listed building, which would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified, would equate to less than substantial harm to the significance of the designated heritage asset. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals.
27. I have outlined above that aspects of the proposed internal works would, in themselves, result in positive changes to the listed building, but they could not be achieved without the aspects of the proposal that would be harmful, as they are intertwined. They would not therefore amount to public benefits.
28. The removal of the external bars to the rear French doors and the reinstatement of an iron balustrade for the rear balcony would improve the character and appearance of the listed building and the Portman Estate Conservation Area (CA, referred to below), which would amount to heritage benefits. The provision of external space for the occupants of the flat would be a private benefit. As these works could be carried out in the absence of the remaining internal works, I can only afford the associated benefits limited weight.
29. Taking the above together, the public benefits I have outlined above would not justify allowing works that would fail to preserve the special interest of the listed building. Therefore, in accordance with paragraphs 197 and 199 of the Framework, considered together, I am not persuaded that there would be wider public benefits of sufficient magnitude to outweigh the great weight to be given to the less than substantial harm that I have identified to the significance of the heritage asset.
30. In light of the above, I conclude that the aspects of the proposal concerning the internal works to the listed building would fail to preserve the special historic interest of the Grade II listed building. Hence, they fail to satisfy the requirements of section 16(2) of the Act, and the heritage aims of paragraphs 197, 199 and 200 of the Framework, Policy 39 of the LP and the Council's Supplementary Planning Guidance: Repairs and Alterations to Listed Buildings (SPD).
31. The aspect of the proposed works concerning the external rear balustrade would preserve the special historic interest of the Grade II listed building. Thus, it would satisfy the requirements of section 16(2) of the Act, and the heritage aims of paragraphs 197 and 199 of the Framework, Policy 39 of the LP and the Council's SPD. As these works are physically and functionally severable from

and capable of being carried out without the proposed internal works, in the context of Section 22(1) of the Act, a split decision would be a logical outcome.

Other Matters

32. The appeal property is situated within the CA, I have therefore had regard to Section 72(1) of the Act, which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area. Unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. The alterations externally relate only to the installation of the balustrade to the rear first floor balcony, which would only be apparent from private land, but would improve the views from neighbouring properties. Given my findings in relation to this matter in the main issue, this aspect of the proposal would also make a positive contribution to the character and appearance of the CA. I note that the Council also raised no objection in this respect and it has already granted planning permission⁴.
33. The appeal property is near 120 Crawford Street, 23 Dorset Street, 72-76 Gloucester Place and 83-97 Gloucester Place, all of which are designated as Grade II listed buildings. I have therefore had regard to the statutory duty referred to in the Act. However, given the proximity and physical relationship of the proposed external works with these designated assets, their settings will be preserved and the proposal will not detract from them.

Conditions

34. In respect of the proposed external rear balustrade, it is not necessary to specify the approved plans, as the decision incorporates these. Furthermore, in the interests of preserving the special interest of the listed building, a condition is necessary to ensure that the proposed balustrade matches the existing found to the front. I have therefore amended the Council's suggested condition to ensure it is more precise in this respect and omitted the tailpiece as it is not relevant.

Conclusion

35. For the reasons given above, I conclude that the appeal should be allowed insofar as it relates to the installation of a new balustrade on the rear first floor level for the creation of a balcony, but dismissed insofar as it relates to the proposed internal works at first floor level including the removal of the mezzanine level.

Paul Thompson

INSPECTOR

⁴ The Council granted planning permission 5 March 2021 (Ref: 21/00456/FULL).