
Appeal Decisions

Site visit made on 29 March 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2022

Appeal A Ref: APP/X5990/W/21/3286129 81-83 Inverness Terrace, London W2 3JU

- 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 Mr Nabeel Naser of New Kent Management Ltd against the decision of City of Westminster Council.
 - The application Ref 20/07658/FULL, dated 27 November 2020, was refused by notice dated 8 July 2021.
 - The development is the installation of 18 air conditioning units, replacement of rear elevation windows with uPVC windows, and Portland stone flooring and entrance steps in front porticoes.
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Appeal B Ref: APP/X5990/Y/21/3286131 81-83 Inverness Terrace, London W2 3JU

- 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 Mr Nabeel Naser of New Kent Management Ltd against the decision of City of Westminster Council.
 - The application Ref 20/07659/LBC, dated 27 November 2020, was refused by notice dated 8 July 2021.
 - The works are the installation of 18 air conditioning units, replacement of rear elevation windows with uPVC windows, and Portland stone flooring and entrance steps in front porticoes.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The descriptions in the above banner headings have been taken from the Council's decision notices, which more accurately convey the nature of the works and development. I have dealt with the appeals on the basis that they seek to regularise the installation of 18 air conditioning units and replacement of rear elevation windows that has already been carried out, as well as consent for works to the front porticoes. 81-83 Inverness Terrace forms part of the Grade II listed building known as 41-95 Inverness Terrace and is within the Bayswater Conservation Area. I am mindful of the duties in sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues – both appeals

4. The main issues are (1) whether the works and development have preserved and would preserve the Grade II listed building known as 41-95 Inverness Terrace (List Entry Number: 1231882) and any of the features of special architectural or historic interest that it possesses and (2) the extent to which the character or appearance of the Bayswater Conservation Area has been or would be preserved or enhanced.

Reasons

Significance and special interest

5. 41-95 Inverness Terrace was listed in 1970 and comprises a long terrace of mid-19th century houses with four storeys plus roof accommodation and basement. The regularity and architectural continuity of the listed building's frontage, comprised of two-bay townhouses with projecting entrance porticoes, presents an imposing frontage ornamented with a variety of detailing that reflects the neo-Classical architectural aesthetic of the period. In contrast, the rear elevations of the terrace are more restrained; constructed in stock-brick and articulated with closet wing projections. Over time, the rear elevation of the terrace has lost some homogeneity, owing to an assortment of extensions and modifications. Yet, architectural consistency is still discernible along the rear of the listed terrace in the general rhythm of window openings and closet wings. The plainer appearance of the listed building's rear elevation serves to reinforce the ordered hierarchy of the terrace.
6. The significance and special interest of the listed building is derived from the architectural composition of the primary elevation, its deliberate uniformity and composition as entity. This is reflected in identification of the listed building's group value (GV) within its statutory list description. Where they exist, traditional timber-framed and multi pane sliding sashes add authenticity and architectural integrity to the listed building. Significance and special interest is also derived from the hierarchy of internal spaces, reflected in surviving architectural detailing, plan form, and the status differentiation reflected in the building's elaborate front and more restrained rear elevations. In common with other houses within the terrace, Nos. 81-83 are constructed of stock brick and feature a channelled stucco ground floor; stucco dressings, cornicing and first floor iron balconies. The dimensions, design and level of detailing of the fenestration changes according to the hierarchy of each storey of the house with the motif repeated to impressive effect along the terrace. To the rear, the composition and detailing of Nos. 81-83 is noticeably plainer, characterised by the regularity of window openings and simple, traditional detailing.
7. Consequently, the appeal site forms an integral part of the architecturally ordered and consistent form of the wider listed terrace, its architectural and historic interest, and thus to its overall significance and special interest.
8. The Bayswater Conservation Area (CA) covers a large area encompassing mostly 19th century development whereby Bayswater emerged as a fashionable residential area. It reflects the expansion of London over a broadly 70 year period and comprises an inter-related pattern of streets, crescents and squares fronted by predominantly stuccoed terraces of an Italianate style. The southern side of the CA forms a built edge and backdrop to Hyde Park and Kensington Gardens. The significance of the CA is derived in part from the underlying

hierarchy and order of the street pattern, the arrangement of buildings and their coherent architectural form and detailing.

9. 41-95 Inverness Terrace is one of the Bayswater terraces that convey a consistency of materials, authentic to the time of the area's development. This is augmented by broadly similar components evident in the separately listed terraces opposite and to the south, culminating in a well ordered, tree lined urban street. Thus, the appeal site and the wider listed building form part of the built backcloth that characterises the CA and therefore, makes an important positive contribution towards the distinctive character and appearance of the CA as a whole and its significance as a designated heritage asset.

The effect on the listed building and conservation area

10. 18 air conditioning units have been installed to the rear of Nos. 81-83. Sixteen are grouped in pairs and broadly aligned with corresponding storeys of Nos. 81-83 on the brick return wall of the projecting rear wings and two are situated just below eaves level on the rear elevation of No. 83. The installed air conditioning units are discernibly boxy and utilitarian in form. The significant number and distribution of the units across Nos. 81-83 cause them to stand out as unsympathetic modern additions that are completely at odds with the simple, traditional detailing of the building's rear elevations. The further up the building, the more conspicuous the units and associated wiring casing becomes. Even where positioned on return elevations, they are affixed in pairs and so project markedly. Overall, the air conditioning units have introduced starkly unsympathetic additions to the rear of Nos. 81-83 at odds with the simple regularity and architectural coherence of their rear elevations. Consequently, there has been a weakening of the architecturally ordered, consistent form and group value of the wider Grade II listed building, to the detriment of its special interest and significance. By the same effect the air conditions units have failed to preserve or enhance the character or appearance of the CA.
11. In addition, numerous double glazed uPVC windows have been installed within the rear elevations of Nos. 81-83. The appellant contends that the uPVC windows replaced non-original windows that were in a poor condition. The Council, however, contend that historic single-glazed timber windows have been replaced.
12. Other than a photograph from 2005 showing the lower portion of the rear elevations on Nos. 81-83, there is little evidence before me of the material or form of all of the pre-existing windows. I observed differences between the extant windows and their glazing pattern compared with those shown in the existing and proposed drawings submitted. This causes me to doubt the accuracy of the submitted drawings which show little discernible difference at a scale of 1:100 between the pre-existing design of windows and those replaced.
13. I observed the windows installed to the rear of Nos. 81-83 to be clearly manufactured of a synthetic material, comprise a thick mid-rail and frame, with what appeared to be applied glazing bars. Irrespective of whether the pre-existing windows were original, those installed stand out as somewhat standardised, unfaithful, and uncharacteristic compared with the traditional timber sash windows on buildings nearby.

14. Although the appellant describes the replacements as having a 'traditional design', I cannot agree that the windows installed successfully replicate the visual qualities or method of construction associated with traditional timber joinery. Rather, I find that they only superficially replicate the detail and design of traditional carpentry whilst also introducing uPVC, a non-authentic material that is completely alien to a building dating from the mid-19th century. Thus, the replacement windows detract from the traditional authenticity and architectural integrity of the appeal buildings to the detriment of the Grade II listed building and CA as a whole.
15. It is also being proposed to replace the existing black granite tiles and steps on the frontage entrance porticoes to Nos. 81 and 83 with Portland stone. This aspect of the appeals would re-introduce a more traditional material into the appeal site's frontage porticoes. Of itself, therefore, the replacement tiles and steps would preserve the special interest of the Grade II listed building and provide some very small enhancement to the character and appearance of the CA.
16. I have found that the air conditioning units and replacement windows have failed to preserve the special interest of the Grade II listed building and failed to preserve or enhance the character or appearance of the CA as a whole. The appeal works and development taken together thereby run counter to the expectations of sections 16(2), 66(1) and 72(1) of the Act. In failing to preserve the special interest of the listed building and CA, it follows that there has been some harm to the significance of each as designated heritage assets. However, given the scale and nature of the proposals, the degree of harm caused to significance has in each case been less than substantial.
17. Paragraph 199 of the National Planning Policy Framework (the Framework) stipulates that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation; while paragraph 202 of the Framework requires this harm be weighed against the public benefits of the proposal.

Heritage and planning balance

18. The proposed reinstatement of Portland stone on the front porticoes offers some small enhancement to the listed building and CA. In combination with the associated economic benefits during construction, this element of the appeals would offer some wider public benefit. However, given the scale of this aspect of the scheme and in the context of the listed building and CA as a whole, the benefit carries moderate positive weight.
19. The appellant contends that the replacement windows assist with air tightness, energy loss and security, as well as reducing the impact of noise and smells from nearby restaurants. There is little justification for use of uPVC windows nor why this would be any more energy efficient than replacement or upgraded timber nor why they are more economically viable. I note that the pre-existing windows may have been in a state of disrepair, however, in my view benefits associated with thermal efficiency and security could have been achievable without deviation from use of sympathetic materials and detailing.
20. I understand that the appeal buildings are currently used as serviced apartments and the appellant contends the air conditioning units are necessary to meet the reasonable expectations of their customers. However, it has not

been demonstrably shown that the apartments would not be lettable without air conditioning, nor that all alternative and potentially less obtrusive measures have been explored. I therefore do not consider the air conditioning units necessarily ensure benefits to the tourism industry, secure the optimum viable use of the listed building, nor offer any wider public benefit.

21. All things considered, I find the wider public benefits associated with the appeals to be limited and carry only moderate weight. For these reasons, I do not consider the sum of wider public benefits sufficient to outweigh the great weight that the less than substantial harm caused to the heritage assets carries. Conflict therefore arises with the historic environment protection policies in the Framework.
22. The works and development also conflict with policies 38, 39 and 40 of the City Plan 2019-2040, April 2021. Amongst other things, these policies seek to conserve and enhance the historic environment as part of Westminster's townscape; seek to ensure that works to listed buildings will preserve their special interest and relate sensitively to the period and architectural detail of the building and protecting, or where appropriate, restoring original or significant detail and historic fabric; and in relation to conservation areas, seek to conserve features that positively contribute to their significance.

Other matters

23. The appellant describes the air conditioning units as replacements for earlier units installed in 2005, and further points to six such units on the roof. However, as few details are provided, it is not established to what extent any previous units had consent and therefore, this carries little weight in my assessment.
24. It is further suggested that the proposals would not harm the listed building because they would not be more widely visible. 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. An absence to any reference to the rear windows within the list description does not indicate that they are not part of the listed building, rather they fall within the definition of a listed building described in section 1(5) of the Act and I have dealt with the appeals on this basis.
25. It is unclear whether any of the replacement windows on rear elevations of nearby properties, flues and other utilitarian equipment benefit from consent. Rather than set a precedent or justify the harm I have identified, these serve to illustrate the incrementally degrading effect non-traditional windows and accretions can have. In any event, I have determined the proposals before me on their own merits.

Conclusions

26. In conclusion, I find that the works and development conflict with the statutory provisions set out in the Act; the historic environment policies within the Framework; as well as the heritage and design policies in the development plan. There are not wider public benefits sufficient to outweigh the harms identified; and in relation to Appeal A, material considerations do not indicate I should make a decision other than in accordance with the development plan.

27. Therefore, for the above reasons and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

Helen O'Connor

Inspector