



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: 22 April 2022

Appeal A Ref: APP/X5990/W/21/3280710 Flat 5, 235 Sussex Gardens, London W2 2RL

- 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 Victoria Rudnik against the decision of City of Westminster Council.
 - The application Ref 21/01330/FULL, dated 3 March 2021, was refused by notice dated 17 May 2021.
 - The development is the installation of 4no traditional double glazed windows to a third floor flat.
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Appeal B Ref: APP/X5990/Y/21/3280666 Flat 5, 235 Sussex Gardens, London W2 2RL

- 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 Victoria Rudnik against the decision of City of Westminster Council.
 - The application Ref 21/01331/LBC, dated 3 March 2021, was refused by notice dated 17 May 2021.
 - The works are the installation of 4no traditional double glazed windows to a third floor flat.
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Decision

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

Preliminary Matters

3. The proposal seeks to regularise four replacement windows that have already been installed within Flat 5, the third floor flat at No. 235 Sussex Gardens (No.235) which is part of the Grade II listed building known as 215-235 Sussex Gardens, 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 the Grade II listed building known as 215-235 Sussex Gardens (List Entry Number: 1264113) (the listed building) 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 (CA) has been preserved or enhanced.

Reasons

Significance and special interest

5. The listed building comprises a terrace of early-to-mid 19th century townhouses fronting the south-east side of Sussex Gardens. Collectively, the listed building presents a Classically ordered frontage of four-storey plus basement houses, 2 windows wide that each feature projecting Tuscan porches. Although just an aid to identification, the statutory list description makes specific mention of the listed building's windows, which include tripartite sashes to ground floor, and square-headed windows, casements and sashes above. The list description also identifies the group value (GV) of the listed building, which formed an important feature of the original layout of Bayswater.
6. The significance and special interest of the listed building is drawn, in part, from its imposing frontage ornamented with a variety of detailing that reflects the neo-Classical architectural aesthetic of the early-to-mid 19th century. Notwithstanding changes over time, including subdivision of townhouses into flats, the listed building has retained integrity and authenticity within surviving elements of original planform, hierarchy of spaces, historic fabric, and traditional detailing. The pattern and design of windows along the listed building's primary frontages is an important component of its architectural coherence, which further reinforces its special interest and significance.
7. The CA is broadly characterised by its wide streets fronted by uniform terraces, where neo-Classical architecture and detailing dominates. The CA encompasses the network of streets and squares that were laid out during the 19th century, when Bayswater emerged as a carefully planned residential suburb. The significance and special interest of the CA as a whole is drawn from, amongst other things, the homogeneity and authenticity of its imposing townscape and the contribution listed buildings make to its attractive built backcloth.
8. Situated at the end of the terrace, No.235 has a Sussex Gardens and Westbourne Street elevation. Consequently, the architectural form and detailing of the building's primary frontages are highly prominent and an integral component in the Bayswater townscape, and so make a positive contribution to the character and appearance of the CA as a whole and its significance as a heritage asset.

The effect on the listed building and conservation area

9. The appeals concern four timber replacement double glazed casement windows at No.235, two facing Sussex Gardens and two facing Westbourne Street. Based on the information before me, including photographs provided by the appellant, it

would appear that the pre-existing windows were of a cruciform casement type with single glazing. From my own observations, the frame thickness of the pre-existing windows shared a similarity in terms of material, detail and construction with other upper storey windows elsewhere in the listed building. Whether or not original, I consider the pre-existing windows reinforced the homogeneity and authenticity of the listed building and the wider Bayswater townscape.

10. By contrast, the replacement windows have double glazing contained in thicker frames and held in place by an integral external rebate and internal timber bead rather than a traditional putty bead. In turn this means that the areas of glazing are reduced by comparison. In combination these factors prevent the replacement windows from being accurate reproductions of traditional glazing and its reflectivity. The appearance of the replacement windows is heavier and more crudely executed, possessing characteristics more consistent with standardised manufacture rather than the more slender profile and traditional glazing of the pre-existing casements, and those elsewhere in the terrace.
11. Notwithstanding the replacement windows are relatively high, even from street level the difference between the more authentic windows seen elsewhere in the terrace on both frontages was discernible. As such, the replacement windows have diluted the architectural authenticity and visual coherence of No.235, the listed building and the wider Bayswater townscape. This has been to the detriment of the architectural interest of the listed building, and to the character and appearance of the CA as a whole.
12. Accordingly, I find that the replacement windows have failed to preserve the special interest of the Grade II listed building and failed to preserve or enhance the special interest of the CA. Conflict has therefore arisen with 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 relatively minor nature of the proposals, this has been limited in extent. Consequently, the degree of harm caused to the listed building and CA respectively has been less than substantial.
13. Nevertheless, 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 states that this harm should be weighed against the public benefits of the proposal.

Heritage and planning balance

14. In support of the proposal, reference is made to improvements to the quality of life of residents of the flat due to a reduction in noise and greater retention of heat. Although the personal needs and wishes of the appellant could change over time and would not be of public benefit per se, some small public benefit is derived from the general investment into the fabric of the listed building and, although not quantified, improved energy efficiency. Even cumulatively, I find the sum of wider public benefits associated with the appeals to be modest, hence they carry moderate weight in their favour. However, such public benefits could

feasibly be achieved through less harmful measures, such as draughtproofing or secondary glazing.

15. While I agree with the appellant that the degree of harm in these appeals is not substantial, even less than substantial harm carries great negative weight. Furthermore, incremental less than substantial harmful changes could markedly erode the significance of heritage assets, which are an irreplaceable resource. For these reasons, I find that the sum of wider public benefits would not be sufficient to justify the proposals. Conflict therefore arises with the historic environment protection policies in the Framework.
16. 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 alterations 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

17. The appellant contends that windows at Nos. 223 and 231 Sussex Gardens are similar to the appeal windows and indicative of window variation in the terrace. I do not have detailed drawings, nor did I make a closer visual inspection to make an informed comparison. In addition, the information provided fails to establish whether consent was obtained in either case. As such, the presence of the examples highlighted does not justify further deviation from the prevailing traditional window detailing or the harm I have identified.
18. Reference is also made to two recent appeal decisions¹ whereby replacement windows were accepted. One concerns an unlisted property some distance from the appeal site while the other concerns various works to a listed building where there was no disagreement between the parties in respect of replacement rooflights and windows. I therefore find that neither appeal cited provides a direct nor useful comparison in respect of the main issues under these appeals.

Conclusions

19. 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.
20. 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

¹ References APP/X5990/D/20/3264180 & APP/X5990/W/20/3260315