



## Appeal Decisions

Site visit made on 2 August 2023

**by Mr R Walker BA HONS DIPTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 September 2023**

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### **Appeal A Ref: APP/X5990/W/23/3317902**

#### **Flat 2, 124 Gloucester Terrace, London W2 6HP**

- 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 Miss Sugrakhathun Alibhai against the decision of City of Westminster Council.
  - The application Ref 22/06044/FULL, dated 6 September 2022, was refused by notice dated 4 November 2022.
  - The development proposed is proposed (retrospective) replacement windows & doors.
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### **Appeal B Ref: APP/X5990/Y/23/3317901**

#### **Flat 2, 124 Gloucester Terrace, London W2 6HP**

- 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 Miss Sugrakhathun Alibhai against the decision of City of Westminster Council.
  - The application Ref 22/06045/LBC, dated 6 September 2022, was refused by notice dated 4 November 2022.
  - The works proposed are proposed (retrospective) replacement windows & doors.
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### **Decision**

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

### **Preliminary Matters**

3. These decisions address both planning and listed building consent appeals for the same site and the same scheme. To reduce repetition, and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter. The development/works subject of this appeal have been undertaken and I am dealing with the appeals retrospectively.
4. As the development/works relate to a listed building and as the site is 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).
5. I have been referred to several properties in the listed building that have UPVC windows. This includes windows in a flat directly above the appeal premises. However, there is no evidence before me to indicate that listed building consent has been granted for those windows. Moreover, I am mindful that there is no time limit stated in the Act within which any enforcement action against any unauthorised works to a listed building can be taken. In this regard, I have

assessed the development/works subject of this appeal on their own planning and heritage merits.

### **Main Issues**

6. The main issues are whether the development/works preserve a Grade II listed building, known as 90-132 Gloucester Terrace, and any features of special architectural or historic interest which it possesses and the extent to which it preserves or enhances the character or appearance of the Bayswater Conservation Area.

### **Reasons**

#### *Special interest and significance*

7. No 124 Gloucester Terrace (No 124) is a mid-nineteenth century mid-terrace residential property, which has been subdivided into flats. It forms part of a Grade II listed building, 90-132 Gloucester Terrace (Nos 90-132), which is one of a series of similar rows along Gloucester Terrace. Each property has a fluted Doric porch and full height bow window rising through each of the floors to the front. This, along with the stucco finish and window detailing present a formal, harmonious and aesthetically pleasing grandeur, which has been maintained to the front.
8. From the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interests. In so far as it is relevant to these appeals, the special interest and significance of the listed building resides in its terraced design, detailing and layout, within which repetition and uniformity are defining original characteristics. It also lies in its illustration of mid-nineteenth century domestic architecture and its relationship with the planned layout of other historic terraces of a similar age and style.
9. The listed building's fenestration is a key feature of its architectural detailing that makes a positive contribution to its special interest/significance. There is a clear distinction between the architectural detailing of the front and rear facades of the listed building, which reflects the difference in their status. Moreover, there have been several alterations to the rear façade, including to the windows, that have eroded the contribution that the uniformity and repetition of its architectural detailing make to its significance and special interest. Nevertheless, where they currently exist on the rear elevation, timber windows, in particular sash windows, contribute to a small degree to the special interest/significance of the listed building.
10. From the evidence before me, the Bayswater Conservation Area (CA) primarily derives its significance from the high quality of the terraced dwellings that it contains. This includes their architectural detailing, materials and the uniformity, rhythm and appearance of the streets and avenues and the spaces between them.
11. In addition, and notwithstanding that they may not be visible from the public realm, the contrasting unadorned and functional secondary rear elevations contribute to the character, appearance, and significance of the CA, albeit to a small degree. The special interest/significance of the listed building contributes positively to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.

*Appeal scheme and effects*

12. I have no reason to question the appellant's opinion regarding the structural integrity of the previous windows and doors, or the extent that they were functional and whether they were beyond repair.
13. I accept that the replaced timber casement windows with top opening lights, the timber bedroom doors and the lounge bay were not entirely sympathetic to the special interest/significance of the listed building. Moreover, the replacement units broadly reflect the opening style, glazing pattern and frame colour of those replaced. However, I do not consider that on close inspection the texture of the frame material has the same patina as traditionally painted wood. Neither is it likely to weather or bed down in the same way as timber, and so over time the synthetic nature of the material would become more apparent and would appear more incongruous. In addition, the fenestration has black separating beads around the margins of the units and the bedroom doors have externally mounted hinges which are clearly discernible, further revealing their modern, technical fabrication.
14. Accordingly, the fenestration lacks the important visual subtleties of texture that traditional carpentry, glazing methods and finishes offer. Consequently, they are clearly identifiable as non-traditional modern fixtures, and the combination of these elements results in fenestration that appears jarringly out of place.
15. Flat 2 is in the basement of No 124 with its windows and doors facing onto a concealed courtyard to the rear. In this regard, they are discrete features on the listed building and are only visible in a small number of private views. Nonetheless, listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of whether or not public views of the building can be gained. Consequently, this attracts little weight in favour of the appeals.
16. For the reason given above, the replacement of the timber windows/doors with a UPVC alternative has had a harmfully erosive effect on the architectural integrity and special interest of the listed building. As such, the development/works do not conserve this designated heritage asset in a manner appropriate to its significance.
17. The development/works have no impact on the historic layout nor the rhythm and uniformity of the grand frontages of the CA. However, if the special interest of a listed building that contributes to the character, appearance and significance of a conservation area would be harmed, it follows that in those respects, the conservation area as a whole can also be similarly incrementally harmed.
18. In this case, the development/works are hidden from views from Gloucester Terrace and as such the attractive streetscape that forms this part of the CA would not be materially affected. Nevertheless, part of the character and significance of the CA is the high quality of the historic buildings it contains. Given my findings above, in relation to the special interest and significance of the listed building, I consider that the development/works harm the character and significance of the CA. Consequently, whilst the magnitude of the harm from the windows and doors may be concluded to only be minor adverse in the context of the CA as a whole, it would nevertheless fail to preserve it.

19. Drawing the above together, the development/works have failed to preserve the special interest of the Grade II listed building, 90-132 Gloucester Terrace and have failed to preserve or enhance the character of the Bayswater CA. As a result, the expectations of the Act have not been met and the development/works have harmed the significance of these designated heritage assets.

*Public benefits*

20. Paragraph 199 of the revised National Planning Policy Framework (the Framework) (2023) advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 200 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.

21. With reference to paragraphs 201 and 202 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. In this instance, given the location of the windows and doors in the rear basement flat, the harm to the listed building and the CA is 'less than substantial' but, nevertheless, of great weight. Under such circumstances, paragraph 202 advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use.

22. The replacement windows and doors incorporate recycled elements and have a long-life span. Moreover, improvements to energy efficiency, would have public benefits through the potential for lower energy consumption and by reducing carbon emissions. There are also benefits from the reduction in condensation and the associated health effects to the occupier of the flat. However, the extent of improvements to the building's thermal insulation, the use of recycled materials and energy efficiency from the development have not been quantified. Given the size of the flat, any environmental benefits which would flow to the public at large are likely to be minimal. Moreover, I have not been presented with any substantiated reasons that similar energy efficiency improvements or the reduction in condensation could not have been achieved in other ways.

23. There will also have been some very small economic and social benefits associated with the installation development/works and the general investment into the property. These outcomes assist the delivery of the main objectives of the planning system as outlined in the Framework. However, the scale of these public benefits is limited by the modest extent of the development/works.

24. The absence of harm in relation to other considerations are neutral matters. Moreover, whilst I'm told the previous windows and doors were recycled, this is not a benefit of the installed windows and doors that are the subject of the appeal before me.

25. There is no compelling evidence, which confirms that the listed building would not be useable or viable as a dwelling, or that its future would be at risk if the appeals were to fail. In these respects, clear and convincing justification for the harm that has occurred to the significance of the designated heritage asset because of the development/works, has not been provided.

26. Overall, the weight that I ascribe to the public benefits that have accrued from the development/works, is not sufficient to outweigh the weight that I attach to the harm I have found. As such, the development/works do not comply with paragraph 202 of the Framework. It follows that they are also contrary to Policies 38, 39 and 40 of the City Plan (2021). These say, amongst other things, that development must optimise the positive role of the historic environment in Westminster's townscape, economy and sustainability, and will ensure heritage assets and their settings are conserved and enhanced, in a manner appropriate to their significance.

### **Other Matters**

27. Considering my previous comments on the unauthorised elements, matters relating to how the windows and doors were installed without consents, the presence of UPVC windows elsewhere that may not have consent and the absence of past enforcement action do not change the merits or effects of the scheme before me. In this regard, any alleged lack of action by the Council in respect of any asserted unauthorised installation of UPVC windows does not denote a general acceptance of them in the listed building.

### **Conclusion**

28. **Appeal A:** The development conflicts with the development plan and there are no material considerations which indicate that the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.

29. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

*Mr R Walker*

INSPECTOR