



Appeal Decisions

Site visit made on 13 February 2024

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 24th April 2024

Appeal A: APP/X5990/W/23/3329654

25 London Street, London W2 1HH

- 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 Steph Thrasyvoulou and New World Hospitality UK Limited against the decision of City of Westminster Council.
 - The application reference is 23/02561/FULL.
 - The development proposed is retention of cast iron railings.
-

Appeal B: APP/X5990/Y/23/3329667

25 London Street, London W2 1HH

- 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 Steph Thrasyvoulou and New World Hospitality UK Limited against the decision of City of Westminster Council.
 - The application reference is 23/02562/LBC.
13 June 2023.
 - The works proposed are retention of cast iron railings.
-

Decisions

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

Preliminary Matters

3. The appellants described the proposal and works as "This is an application for retrospective planning and listed building consent for the existing railings enclosing the rooftop terrace at first floor level". The Council amended this to "Retention of cast iron railings". I have therefore used the amended description provided by the Council as this provides a clearer description of the proposed development and I have determined the appeal on this basis.
4. Since the determination of these applications, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to these appeals have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
5. As the proposal is in a conservation area and relates to a listed building 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).

6. At the time of my visit the railings were in place and so I was able to assess their effect in situ.

Main Issues

7. The main issues are: whether the proposal would preserve the Grade II listed building, "2-22 Norfolk Square" (Ref: 1225255) (the LB), and any of the features of special architectural or historic interest that it possesses; and the extent to which it would preserve or enhance the character or appearance of the Bayswater Conservation Area (the CA).

Reasons

8. The CA, within which the site lies, encompasses an area between Paddington Basin and Bayswater Road. The townscape is uniform, despite being composed of several distinct areas developed over a period of some 70 years by different estates and speculators. Although architectural details vary, they have a common inspiration in the Italianate style. This provides a consistent scale and density of development which predominates over superficial differences. The regular composition of streets and squares enhances the impression of unity within the townscape of the area. Key features of detailing which occur frequently throughout the CA include elaborate basement area railings often associated with iron balconies at first floor level. Their frequency, consistency and quality are features which make a positive contribution to the character and appearance of the CA as a whole.
9. The prevailing character of the area is predominantly residential. Many of the dwellinghouses have been converted into flats. However, there is a marked change in the vicinity of Paddington Station, where there are numerous hotels and commercial frontages. The appeal site lies within this latter area.
10. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, is the consistent detailing of frontages with high quality decorative ironwork.
11. The LB probably dates from the 1840s and has undergone considerable internal change. The appeal property was formed by the amalgamation of Nos 2 and 4 Norfolk Terrace, which are part of the LB, with 25 London Street. It is currently in use as a hotel. It is an attractive building with features typical of buildings in the wider CA, including railings at street level and iron balconies at first floor.
12. Given the above, I find the special interest of the building, insofar as it relates to these appeals, to be primarily associated with its external detailing as an example of a terrace of dwellings that has evolved over time to reflect the changing character of the area from predominantly residential to a business area. I find that the ironwork on the facade directly contributes to the special interest of the building.
13. Whilst considerably altered internally, to reflect the changing uses of the building, the Norfolk Street façade appears relatively intact. Latterly, as part of wider works to the building, the appearance of the London Street façade has been altered to incorporate a roof terrace at first floor level. The development and works (the 2017 works) were given permission in 2017¹.

¹ Council references 16/10213/FULL and 16/10214/LBC

14. The appellant identifies that the listing details do not identify the London Street side elevation as significant. However, listing descriptions are primarily for identification purposes and do not provide an exhaustive or complete description of the special interest of a building or its significance. I have, in my decision, considered the LB as a whole.
15. The 2017 works authorised the installation of railings, broken up by piers, at first floor level. These works were the subject of conditions to govern their form, location and appearance.
16. There is no dispute between the parties that the piers, as installed, are acceptable. The point at issue in this appeal is whether the railings, in their current form, result in harm to the LB and the CA.
17. As I have identified above, the roof terrace is a recent addition to the London Street façade of the appeal site. Prior to the works that façade lacked both piers and railings. Thus, they constitute new additions to the historic facade. Works to form the terrace have the benefit of permission and thus, in some form, railings, or some other form of enclosure, are necessary to protect persons on the terrace.
18. There are balconies with iron railings of various designs in the area and, as I have identified, these form a positive feature of the CA and the LB. In the immediate vicinity the façade of Nos 2-22 Norfolk Terrace and Nos 10, 11 and 12-20 London Street, almost directly opposite the site, are those with which the railings which are the focus of this appeal would bear closest visual comparison.
19. These railings differ visually from the appeal railings in both detail and appearance. Whilst all three designs exhibit a bellying out in the lower portion of the railing, this occurs in the lower portion of the older designs, whilst extending well into the upper half of the appeal railings.
20. The closest of the railings opposite, on the first floor of Nos 10 and 11 London Street, have a similar arrangement of two decorative elements. Close to the handrail is a downward pointing triangular group above a stylised 'leaf', supported by two vertical bars, with a gap between each decorative columnal feature.
21. However, the historic railings have a more solid, substantial appearance. This is created by the attachment of the triangular group directly to the vertical bars rather than being depended from a horizontal bar, and the leaf and triangular group being greater in section and more detailed in their representation of natural forms. This is emphasised by the difference in proportion of the leaf element between the appeal railings and the historic ones, where the leaf element on the newer railings is more dominant in the space, whilst lacking the solidity and detailed relief present in the historic railings. Although there are other differences in detail between the two sets of railings, these are the elements which are most readily apparent to the observer at street level.
22. The railings at first floor level on 12-20 London Street feature similar detailing to those on Nos 10 and 11, but, in addition to the differences noted above, feature three decorative elements.

23. The railings on the balconies facing onto Norfolk Square around the corner of the building are, similarly, much more detailed and the proportions and appearance of the decorative elements differ substantially.
24. Thus, the new railings are obviously different in appearance to the historic railings opposite or around the building corner, lacking the quality and elegance of the older balustrades and this emphasises their lack of authenticity. That difference would contrast with the higher quality of the historic railings on the LB and in the wider CA, which I have identified above as making a positive contribution to both the special interest of the LB and the character and appearance of the CA and are, therefore, harmful.
25. The appellants have suggested that the railings as fitted are not conspicuous in the street scene as they are at an elevated level, outside of the eyeline of pedestrians. However, they are readily apparent when walking along London Street and such features, as typifying the heritage of the area and being, in themselves, visually interesting, attract the attention of passers-by. Even if this were not the case, listed buildings are protected for their inherent historic interest irrespective of the prominence of any changes within the public domain.
26. Given the above, I find that the proposal would fail to preserve the special interest of the LB and the character and appearance of the CA as a whole. In doing so it would harm the significance of these designated heritage assets. I give this harm considerable importance and weight.
27. Paragraph 205 of 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. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given the nature and scale of the development and works I find the harm to the significance of the CA and LB to be less than substantial in this instance but nevertheless of considerable importance and weight.
28. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. There is no suggestion before me that, were these appeals to fail, the business would fail.
29. The Proposal would provide a minor benefit to the local economy as it would provide employment in the construction industry and the supply chain. However, due to the minor nature of the works I afford this limited weight in my decision.
30. Given the above and in the absence of any significant public benefit that would outweigh the harm to the heritage assets, I conclude that, on balance, the development fails to preserve the special interest of the Grade II listed building and the appearance of the Bayswater Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 206 of the Framework and conflict with policies 38, 39 and 40 of the City of Westminster City Plan 2019-2040 (2021) that seek, among other things, to protect Westminster's heritage assets and ensure that development, including alterations to buildings,

conserves and enhances heritage assets and their settings, in a manner appropriate to their significance.

Other Matters

31. The appellants argue that the details previously indicated on the drawings accompanying the 2017 works provide a fallback position. My attention has been brought to two conditions placed on each of the 2017 permissions, whose wording is identical for both the Planning Permission and the Listed Building Consent.
32. Condition 4 in each consent requires submission of a drawing to show a revised location for the first-floor piers. Condition 5 of the Listed Building Consent and Condition 6 of the Planning Permission (Condition 5/6) requires that "The first-floor metal railings hereby approved must exactly match the existing adjacent original metal railings in the immediate townscape." Condition 4 of both consents has been discharged and the piers installed in their approved positions.
33. I note, however, that the wording of the condition relates only to the positioning of the piers and does not mention the railing design. The drawing associated with the discharge of the Condition 4s shows a first floor railing design. However, that was not a matter for consideration in regard to the clearance of those conditions. Instead, the design of the railings is controlled by Condition 5/6.
34. The appellants have chosen to submit retrospective applications for planning permission and Listed Building Consent, and it is the decisions relating to those applications that have been appealed. There is no appeal against the conditions applied in the 2017 consents.
35. It is argued that the wording of Condition 5/6 is imprecise and unenforceable. However, I note that, whilst referring to 'the immediate townscape', the condition also qualifies this as referring to the existing adjacent original metal railings. The term 'adjacent' is precise and limits the consideration of the townscape to specific buildings. Given that the railings do not match these, or indeed any of the nearby railings, either in quality or appearance, I give the putative fall back very limited weight in my consideration of the appeal.

Conclusion

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

I A Dyer

INSPECTOR