



Appeal Decisions

Site visit made on 30 April 2025

by **Paul Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 June 2025

Appeal A: APP/X5990/W/24/3357233

Flat 2, 207 Sussex Gardens, City of Westminster, London W2 2RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrey Ryjenko against the decision of City of Westminster Council.
 - The application Ref is 23/01245/FULL.
 - The development proposed is replacement of first floor flat 2 windows to front elevations, replacement of first floor flat 2 windows to upvc to rear elevation, creation of access door to flat roof via new metal balcony and use flat roof as a terrace garden, internal alterations first floor flat 2.
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Appeal B: APP/X5990/Y/24/3357234

Flat 2, 207 Sussex Gardens, City of Westminster, London W2 2RJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr Andrey Ryjenko against the decision of City of Westminster Council.
 - The application Ref is 23/01246/LBC.
 - The works proposed are replacement of first floor flat 2 windows to front elevations, replacement of first floor flat 2 windows to upvc to rear elevation, creation of access door to flat roof via new metal balcony and use flat roof as a terrace garden, internal alterations first floor flat 2.
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Decisions

Appeal A

1. The appeal is dismissed insofar as it related to creation of access door to new rear balcony. The appeal is allowed insofar as it related to internal alterations to first floor flat and planning permission is granted for internal alterations to first floor flat at Flat 2, 207 Sussex Gardens, City of Westminster, London W2 2RJ in accordance with the terms of the application, Ref 23/01245/FULL, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos GDP253/PL0, GDP253/PL1, GDP253/PL2, GDP253/PL3 REV A, GDP253/PL6 REV A, and GDP253/PL7 REV A, in so far as they relate to the approved development.
 - 3) Demolition or construction works shall take place only between 8am and 6pm Monday to Friday, 8am and 1pm on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. Noisy work must not take place outside these hours unless prior consent has been granted under section 61 of the Control of Pollution Act 1974.

Appeal B

2. The appeal is dismissed insofar as it related to creation of access door to new rear balcony. The appeal is allowed insofar as it related to internal alterations to first floor flat and listed building consent is granted for internal alterations to first floor flat at Flat 2, 207 Sussex Gardens, City of Westminster, London W2 2RJ in accordance with the terms of the application Ref 23/01246/LBC, and the plans submitted with it, subject to the following conditions:
 - 1) The works authorised by this consent shall commence not later than three years from the date of this consent.
 - 2) Unless otherwise shown on the approved drawings, all new work and improvements inside the building must match existing original adjacent work in terms of the choice of materials, method of construction and finished appearance.

Preliminary Matters

3. The description of the proposal set out in the banner heading reflects that included on the application form, but this was amended following omission of the proposed changes to front and rear windows. The description for both appeals therefore reflects the determined scheme, as stated on the appeal forms and decision notices, so it is for '*creation of access door to new rear balcony, internal alterations to first floor flat*'. However, for clarity, the proposal is described in my reasoning.
4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This applies to listed building consent appeals, so I have had regard to in relation to both appeals. Moreover, they concern the same scheme under different, complementary legislation, so I have dealt with both appeals together in my reasoning.

Main Issues

5. The decision notices only refer to concerns regarding the creation of an access door to a new rear balcony; they do not refer to the internal alterations. The main issues are therefore whether creation of the proposed access door to a new rear balcony would preserve a Grade II listed building, '163-213 Sussex Gardens', and any features of special architectural or historic interest which it possesses; and the extent to which it would preserve or enhance the character or appearance of the Bayswater Conservation Area (CA).

Reasons

Significance and Special Interest

6. The Grade II listed building, 163-213 Sussex Gardens¹, concerns a long terrace to the southeast side of this street, between Sussex Place and Westbourne Street. It was constructed in the early- to mid-19th Century. 207 Sussex Gardens is situated mid-terrace and arranged over four storeys, with basement and attic rooms. It was originally built as a single-family home but has since been subdivided to form flats, including Flat 2 on its first floor.

¹ List Entry Number: 1237438.

7. The listed building's front elevation includes a plethora of decorative architectural features, which the listing description focuses on. However, this is for identification purposes only and does not form an exhaustive list of the features of the building that are of special interest. Moreover, the architecture of the terrace's rear façade is more restrained with primarily brown brick and closet wings. The terrace steps partially, which means windows across the front and rear are at different heights, including to closet wings where these differ considerably. In particular, the existing ensuite window cill in the closet wing of Flat 2 is some way above the roof of the extension to the flat below. The windows also generally diminish in proportions.
8. Over time, the rear façade of the terrace has been extended and altered, including a balcony and staircase down from the closet wing window in the flat above. Despite these alterations, and those to the floor plan of No 207 associated with its conversion to flats, I find the special interest of the listed building to be primarily associated with its architectural and historic interest and origins as a notable terrace of early- to mid-19th Century houses. It possesses a richness and uniformity of architectural detailing that is befitting of its Grade II status, including traditional detailing, proportions and order to its front and rear window openings.
9. The listed building is also situated within the CA, which is in two parts, either side of Queensway. It is characterised by a grid pattern of largely residential, terraced streets and open squares lying to the north of Hyde Park and Kensington Gardens. Its historical significance principally derives from its 19th Century origins and the fine Georgian architecture found within it, including the uniformity and grandness of the scale and appearance of predominantly stuccoed housing with traditional proportions to window openings, and the contribution these make to its townscape. Sussex Gardens was first known as Grand Junction Road and, together with its buildings, it formed an important feature of the original layout of Bayswater. The elegantly decorated front façade of the listed building exhibits some of the typical characteristics of the CA and its simpler rear façade contrasts with and reinforces the hierarchy to different façades of buildings in the CA. Thus, it contributes greatly to the CA's character and appearance, and its understanding and significance.

Effect of the Proposal

10. Due to the presence of the buildings in Bathurst Mews, rear of Sussex Gardens, the windows and wider rear façade of the listed building are not prominent from within the public realm. Nevertheless, listed buildings are protected for their special interest, irrespective of whether public views can be gained. In terms of private views, the proposal would be visible from properties to the rear, as well as from extensions and roof terraces, as these are visible from the site.
11. The metal casement window, in the ensuite bathroom of the closet wing of Flat 2, would be lowered to install a door with a window above it. The proposed opening with a door and window atop it would be significantly taller than that in situ and elevated above the roof below it. This would appear ungainly and harmfully disrupt the established pattern of openings. While a doorway has been formed to provide access to a roof terrace to the southwest, this is not as tall as the appeal proposal, and it addresses the roof. The proposal also differs to the circumstances of the window above, which does not appear to have been altered in size. As such, securing further details of the door for the proposal would not be a suitable means to mitigate against the harm that would be caused.

12. The proposed balcony would be enclosed by an iron balustrade. It would have a cumbersome and functional appearance that would further disrupt the simple form of the building's rear façade. This has already been harmfully impacted by later additions, and the proposal would share some of the negative characteristics of the balcony above it. Together with the stairs from it, that balcony is unwieldy and a dominant addition to the rear of the terrace, and a prominent detractor in the CA due to visibility from surrounding buildings. In addition, despite the presence of roof terraces nearby, these are generally atop closet wings or later extensions to the listed building, not in the form proposed. Consequently, their existence would not provide justification for the new balcony given the harm that it would cause to these designated heritage assets.

Public Benefits, Heritage Balance, and Conclusions on the Main Issue

13. The introduction of the proposed door and balcony would be discordant alterations to the listed building, notably in the context of the pattern and size of historic openings in the rear façade of the terrace. These would therefore fail to preserve the listed building or its features of special architectural or historic interest and, thereby, its understanding and significance as a heritage asset. Furthermore, as the special interest of a listed building within the CA would be diminished, the character and appearance of the CA, as a whole, would be incrementally harmed. I consider these equate to less than substantial harm to the significance of these designated heritage assets. The supporting text to Policy 39 of the City Plan 2019-2040 (April 2021) refers to the National Planning Policy Framework (the Framework), Paragraph 215 of which identifies that this harm should be weighed against the public benefits of proposals.
14. Brownfield land or Previously Developed Land (PDL) is defined in the Glossary of the Framework. The appeals concern an existing building within a built-up area, and not 'land'. Moreover, the proposal concerns the addition of a balcony to Flat 2, not the development of 'land'. Consequently, I am not convinced that it would be necessary for this decision to give substantial weight to the value of using suitable brownfield land. Even if the building did meet this definition, given the harm that would be caused to the heritage assets, the proposal would not safeguard and improve the environment, a key facet of making effective use of land. It would not therefore be suitable brownfield land. Notwithstanding this, Flat 2 could be said to be under-utilised without the proposed balcony and its provision would attract modest weight as an improvement to the living space of the occupiers of the flat. While it would primarily benefit their health and wellbeing, it would also improve the available accommodation and provide opportunities for some surveillance to deter crime.
15. Addressing matters relating to thermal and other efficiency savings provided by the materials and the construction of the proposed door could reduce the demand for energy from the building, which would be a modest public benefit in environmental terms due to the extent of the proposal.
16. The absence of harm to the living conditions of neighbouring occupiers, in respect of privacy, and accordance with Policy 7 of the City Plan weighs neither for nor against the proposal, as it would be an expectation of all schemes.
17. Paragraph 212 of the Framework states, when considering the impact of a proposed development on the significance of a designated heritage asset, great

weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

18. Taking the stated benefits of the appeal scheme together, I am not persuaded there would be public benefits of sufficient magnitude to outweigh the great weight to the assets' conservation and considerable importance and weight to the less than substantial harm identified to their significance. Within the context of my duties under sections 66 and 72 of the Act, I conclude that the identified aspects of the proposal would fail to preserve the listed building and features of special architectural or historic interest which it possesses; and it would fail to preserve the character and appearance of the CA. Hence, it would conflict with the heritage aims of Policies 38, 39 and 40 of the City Plan.

Other Matters

19. The proposal also includes internal alterations to reconfigure the floor plan to provide a further bedroom to the rear. The existing store between Bedrooms 1 and 2 would be enlarged to form an ensuite for the latter. The kitchen would be moved to the front right room, with the existing forming Bedroom 4. The hallway bathroom would have a second access for guests and form an ensuite to Bedrooms 1 and 4. The latter would be provided by a second opening in the party wall between the separate bays of the flat. Further internal alterations would be made to raise the floor level to the left side by 150mm, for services to pass below it, and timber floor coverings would be used. The floor level would therefore change between the two sides of the flat, rather than just to rooms to the rear.
20. There have previously been alterations to the historic plan form of this part of the first floor of the listed building due to its conversion to a flat, through repositioning internal walls and creating an opening in the party wall to provide circulation in the flat through its hallway. While the addition of a further opening in the party wall would add to circulation between the separate bays of the listed building, it would not affect the proportions of the rooms to either side of it, or how legibility of the plan form of this part of the building is appreciated or understood. Raising the floor level and use of different coverings would also not affect appreciation of detailing within each of the rooms or how the floor-to-ceiling height affects their proportions.
21. Accordingly, within the context of my duties under the Act, the internal alterations would preserve the special interest of the listed building; and, given they would not be experienced from public areas within the CA, they would preserve its character and appearance. The internal alterations would not harm the significance of these designated heritage assets and would accord with the abovementioned policies of the City Plan. Section 22(1) of the Act enables a split decision in respect of listed building consent appeals and, these internal works are clearly both physically and functionally separate from the proposed door and balcony, as the proposed study could be used as such with a window. I am therefore able to issue a split decision for this aspect of the proposal in both appeals.

Conditions

22. Despite my findings in relation to the door and balcony, the split decision in favour of the internal alterations requires conditions be imposed. Further to the standard time limits for both appeals, in the interests of clarity I have specified the approved drawings in Appeal A but omitted those relating solely to external aspects of the appeal scheme. Such a condition is unnecessary for Appeal B, as the decision

refers to the plans. Furthermore, in the interests of preserving the special interest of the listed building, for Appeal B it is necessary to ensure works match adjacent areas, unless indicated on the drawings. There is also no requirement for details of facing materials, as the approved scheme does not include external alternations. A condition is required for Appeal A in relation to construction and demolition working hours to protect living conditions of neighbouring occupiers, but I have altered the suggested restrictions given that all works are internal.

Planning Balance and Conclusion

23. I have identified the public benefits of the appeal scheme through undertaking the heritage balance. The aspect of the appeal scheme concerning internal alterations would also accord with the aims of the City Plan regarding its effect on the listed building and CA. As these would amount to absences of harm, they would neither weigh for nor against the remainder of the proposal. Moreover, harm that would result from the access door to a new rear balcony would fail to preserve the listed building and features of special architectural or historic interest which it possesses, and the character and appearance of the CA. Conflict would arise with the City Plan as referred to above.
24. This leads me to conclude that the aspect of the proposal concerning the creation of an access door to a new rear balcony would conflict with the City Plan and the material considerations do not indicate that the appeals should be decided other than in accordance with it. However, the proposed internal alterations would accord with the City Plan and there are no material considerations to indicate otherwise. Accordingly, I conclude the appeals should be allowed in so far as they relate to the internal alterations; and dismissed in so far as they relate to the creation of an access door and new rear balcony.

Paul Thompson

INSPECTOR