



Appeal Decision

Site visit made on 28 October 2025

by **Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 4th November 2025

Appeal Ref: APP/X5990/F/24/3357320

1 Westbourne Crescent, flat 1, London, W2 3DB

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
- The appeal is made by Mr Yury Zhelyabovskiy against a listed building enforcement notice issued by the City of Westminster Council
- The enforcement notice was issued on 8 November 2024
- The contravention of listed building control alleged in the notice is: without listed building consent:
 - 1) the removal of the internal wall and door separating the hallway and the second bedroom;
 - 2) Removal of part of the wall and door between the lounge and hallway;
 - 3) Installation of partition walls in the second bedroom to create an ensuite bathroom;
 - 4) Part lowering of the ceilings and the installation of an air conditioning system and spotlights within the suspended ceiling space;
 - 5) Removal of the tripartite timber sash window and lower wall located in the lounge area and installation of a large bi-fold metal door opening out into the front lightwell area;
 - 6) Externally fixing shut the front door within the front lightwell area, and concealing the front door at the interior wall;
 - 7) Installation of a white plastic grate on the front wall in the front lightwell;
 - 8) Installation of a large metal tank with timber covering attached to rear wall within the rear lightwell area.
- The requirements of the notice are:
 - 1) Reinstate an internal wall and door in the position shown annotated in red on Plan 1, and part shown, labelled, in Photograph A, separating the hallway and bedroom. The reinstated door must be a solid timber four panelled door, painted white, to match the design of the door shown labelled Door Design 1 on the document titled 'Window and Door Design';
 - 2) Remove the ensuite bathroom from Bedroom 2 and revert the room layout back to the room size shown and labelled Bedroom 2 on Plan 1;
 - 3) Unseal the external front door shown in Photograph B and remove any internal wall coverings placed behind the external front door so ensuring that the door can be opened and closed and used to access the Property;
 - 4) Reinstate an internal wall and door in the position shown annotated in blue on Plan 1, and labelled in Photograph C, between the lounge and hallway. The reinstated door must be a solid timber four panelled door, painted white, to match the design of the door shown in Door Design 1 on the document titled 'Window and Door Design';
 - 5) Remove the aluminium bi-folding door from the front elevation of the Property at lower ground floor level, shown and outlined in orange in Photograph D;
 - 6) On completion of Step 5) reinstate a single glazed, timber framed, double hung, sliding, weighed, tripartite, timber sash window with timber architrave to match the design and glazing pattern of the window shown in Photograph E, complying with the following details;

- i) The glazing bars shall be integral to the frame, with mortice and tenon joints and have a narrow 'lamb's tongue' profile, as shown in 'Figure 1' of the document titled 'Window and Door Design';
 - ii) The glass shall be fixed into an external rebate, with a putty finish;
 - iii) The sash boxes shall be recessed to match the window shown in Photograph E and the visible projection of the sash box shall be a maximum of 2.5cm beyond the masonry; Reinststate a brick wall below the reinstated window, using materials to match the existing elevation, plastered and painted at the external elevation to match the design and colour of the surrounding existing stucco, and plastered and painted at the internal face to match the surrounding interior wall;
- 8) Remove the plastic white grate from the external wall of the building at lower ground floor level, shown outlined in green in Photograph F, and repair and refill the hole with materials to match the existing elevation, and paint to match the design and colour of the existing stucco frontage;
 - 9) Remove the metal tank and surrounding timber enclosure, shown and annotated on Photograph G, and all associated fixtures and fittings from the rear lightwell at lower ground floor level, and repair any damage caused to the rear wall using materials to match the existing rear façade;
 - 10) Remove the air conditioning system installed throughout the Property at ceiling level, part shown and annotated in Photographs H and I. Reinststate the ceiling to its previous height, design and location before the air conditioning system was installed, as part shown and labelled in Photographs C & E.
 - 11) Remove the lowered spotlights installed throughout the Property at ceiling level part shown and annotated in Photographs H and I. Reinststate the ceiling and the spotlights to their previous height, design and locations before the new system was installed, as part shown and labelled in Photographs C & E.
 - 12) Repair any damage caused to the building by implementing Steps 1) to 11) using materials to match the construction and appearance of the existing building; and
 - 13) Remove from the Property all waste, materials, equipment, and debris created as a result of fulfilling the requirements of this notice.
- The period for compliance with the requirements is 6 months.
 - The appeal is made on the ground set out in section 39(1) (c), (d) and (g), of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. It is directed that the listed building enforcement notice be varied by: the deletion of the requirement 9 "*Remove the metal tank and surrounding timber enclosure, shown and annotated on Photograph G, and all associated fixtures and fittings from the rear lightwell at lower ground floor level, and repair any damage caused to the rear wall using materials to match the existing rear façade*". Subject to this variation, the listed building enforcement notice is upheld.

Preliminary Matters

2. I have numbered the separate elements of the allegation for ease of reference.

The Appeal on Ground (d)

3. This ground is that the works were urgently necessary in the interests of health, safety or to preserve the building. The appellant argues the air conditioning and the metal tank (which is a hot water boiler) were necessary for the health and comfort of the occupiers. While this may be the case, that is not the point of ground (d). When it talks of safety and health it means that the building is likely to collapse and injure someone without urgent works to prop it up, not that the occupiers would like hot water on tap. In any event what happened to the original hot water supply? The works under ground (d) have to be the minimum

immediately necessary. The works described in the notice appear to be just the preference of the developer and were not 'urgently necessary' at all.

4. The appeal on ground (d) fails.

The Appeal on Ground (c)

5. This ground is that the works alleged do not contravene section 9 (which refers back to section 7) of the Act. That is they do not affect the special architectural or historic interest of the building. Nos 1-7 Westbourne Crescent are listed grade II. This means that everything that was in the building at the time of listing is protected and any changes that affect its historic character (whether an improvement or harm) requires consent.
6. The fact that the external view of the building is not changed is largely irrelevant. The internal floor plan, the circulation spaces, walls, ceilings and so on are all protected by the listing. If changes to the interior spaces affect the building's character, then they require consent. In this case there are external changes as well, because the front lightwell sash window has been removed, along with the brickwork below it to be replaced by a set of French windows. Internally numerous changes have occurred that affect the internal spaces and room arrangements, including turning the kitchen/utility into a 3rd bedroom, the lounge into a kitchen/diner/lounge, bedroom 2 into an ensuite and removing the hall and front door, replacing them with bi-fold doors in the lounge. Ceilings have been lowered in the living room and bedroom 2 to accommodate air-conditioning and ceiling lights. Quite clearly these changes affected the special historic interest of the building, by altering the layout and flow of movement, loss of original external brickwork, breaking up the large, curved bedroom 2 and so on. The appeal on ground (c) fails except for the hot water tank discussed below..

The Appeal on Ground (g)

7. This ground is that the requirements exceed what is necessary to restore the building to its condition before the works were carried out. Clearly that is not the case and the agent has provided photographs showing exactly what the flat used to look like. The notice simply requires the restoration of the flat to how it was before. The arguments made under this ground are really of the "these changes are so minor they don't really cause any harm" type, which is effectively ground (c). Although I have covered ground (c) above, I shall deal with the specific items that have been identified by the appellant as acceptable.
8. The front door and loss of wall to bedroom 2 are probably the most significant changes. They are clearly designed to enable the ensuite to fit in the bedroom and the loss of the curved wall seriously harms the integrity of the room. There also needs to be an external access and so the loss of the front door is compensated for by the new bi-fold doors. These have replaced the historic window with modern, large glass doors. These are visible from the street and look wholly out of place. In my view these changes are all interconnected and a side-effect is the change to the historic plan form. All these changes, on their own, or taken together are harmful.
9. The appellant argues the air-conditioning can stay as long as the ceiling heights are levelled. I am not sure what is proposed here, but I assume the whole ceiling will be lowered, rather than the lowered sections removed to re-instate the

previous ceiling heights. The affected rooms now look like modern hotel rooms rather than parts of an early Victorian villa. Restoration of the ceiling heights is important to return the rooms to their previous condition and I have no evidence this can be achieved by leaving the air-conditioning in place.

10. The internal lightwell provides an amenity space for the bedroom that has replaced the kitchen but previously was a larger courtyard that was accessed from the utility room (now storage associated with the new bedroom). The notice does not require any changes to the kitchen/bedroom alterations except the removal of the hot water tank that is now in the lightwell. This small, internal, lightwell really has no practical use, I would not describe it as amenity space for the occupier of the bedroom. It is possible it can only be seen from the basement bedroom and the ground floor flat's kitchen (although that also now appears to be a bedroom). Views into this space are not attractive at the best of times and adding a hot water tank would seem to have no effect on them. I do not think that putting a modern tank into the lightwell has any impact on the historic character of the listed building at all, so there is no contravention of s7 nor is the less than substantial harm test of the NPPF brought into play. This element can stay. I shall delete requirement 9 from the notice. Otherwise the appeal on ground (g) fails.

Simon Hand

INSPECTOR