

Enforcement Delegated Report

Receipt date:

13/10/2023

Officer

Joshua Cheung

Enforcement Case

EN22/0113

Breach Address

31-39 Argyle Street, London,

Photos & Other material



Authorised Officer Signature

26/10/2023

Alleged Breach

Without consent, the alteration of the façade:

1. Excessive cleaning of all the brickwork at first and second floor front elevations of Nos 31-39;
2. Dying of the round-headed recesses and the gauged flat arches in bright red dye at the first and second floor front elevations of Nos 31-39;
3. Repointing of all the brickwork with bright lime-based mortar at first and second floor front elevations of Nos 31-39;
4. At No 37, the rendering of the brickwork at ground floor front elevation in painted stucco.

5. At No 39, the rendering of the brickwork at ground floor front elevation in painted stucco.

Recommendation(s):

That the Director, Culture and Environment instruct the Head of Legal Services to issue a Listed Building Enforcement Notice under Section 38 Planning (Listed Building and Conservation Area) Act 1990 as amended, and officers be authorised in the event of non-compliance, to prosecute under section 43 or other appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

Site Description

The site comprises 5 of the 11 buildings of the Grade II Listed No. 27-43 terrace, which resides within the Bloomsbury Conservation Area. No 31-37 has painted stucco ground floors, C1834-9 Yellow stock brick for the first and second floor elevations, red brick gauged flat arch windows (timber sash). Red brick round-headed recesses at the first floor elevations only. Slated Mansard roofs with dormer windows. No 39 – C1834-9 Yellow stock brick for the ground, first and second floor elevations, gauged yellow brick flat arch windows (timber sash) and yellow brick round-headed recesses at the first floor elevation only.

Investigation History

Complaint received [14-FEB-22].

Warning letter sent - alleging the "power washing of the brickwork at first and second floor levels and replacement of all the ground floor render" and requesting a discussion on a way forward in relation to the alleged works [15-FEB-22].

Offender responds to the letter – outlining what works have been undertaken [21-FEB-22].

Previous enforcement officer requests further details in relation to the balcony, windows, and any internal works [02-MAR-22].

Offender responds – providing extra details on the balcony, windows, and any internal works [20-MAR-22].

Previous enforcement officer takes the matter to a Conservation Surgery – objection to the excessive cleaning of the brickwork at first and second floor elevations. Offender subsequently requested to apply a light soot wash to remedy the breach at the site [30-MAR-22].

Offender objects to light soot wash, saying that the previous appearance of the G2 listed buildings can be achieved through "natural weathering" (letting the breach remain) [23-JUN-22].

Previous enforcement officer confirms with Senior Conservation Officer that the brickwork needs to be "toned down" (light soot wash) and therefore provides 3 months for the offender to carry out the remedial works – no response recorded [19-JUL-22].

Enforcement officer carries out compliance check – light soot wash was not applied. Painted stucco render also still in situ. Enforcement officer follows up with offender [07-MAR-23].

Offender responds – appointing external consultant to further object a light soot wash [13-MAR-23].

External consultant provides a PDF report addressing the excessive cleaning of the brickwork, which summarises "My view is that, [whilst requesting a light soot wash would be one option, a much better option would be to allow the building to be 'true to its itself' and its materials \(following the typical 'SPAB Approach'\)](#). I suggest that this would appear to be a better conservation approach in these particular circumstances." Reviewed by enforcement officer and sent to Senior Conservation Officer – EO's professional opinion is that a soot wash the option that is still required (see below assessment) [03-APR-23]

Our Senior Conservation Officer, after a review, confirms that the current appearance of (and their suggested approach to remedy the harm is not acceptable and the request for a soot wash should

remain in place [04-APR-23].

Enforcement officer issues final request for a light soot wash before the service of a LBEN [11-APR-23].

External consultant continues to object this request – citing an upheld appeal of a similar planning breach but from a different location and context [19-APR-23].

Enforcement officer reiterates the Council's position [24-APR-23].

External consultant requests the matter to be taken formally (to serve LBEN which they will appeal) [04-MAY-23].

Enforcement officer sends letter warning of the forthcoming service of an LBEN, outlining the what the notice will allege, to all those with an interest [30-JUN-23] – no response until 28-JUL-23.

LBEN served [28-JUL-23].

LBEN appealed and Start Letter issued [15-SEPT-23]

LBEN withdrawn as it was brought to the Council's attention in the requirements section of the notice, a soot wash was supposed to be for nos 31-39, not just 31-37, and confirmation was provided in their appeal statement that the original brickwork of the recessed round-headed arches were not removed and replaced with new red bricks, but dyed red [13-OCT-23]

Relevant policies / GPDO Category

Camden Local Plan 2017

D1 – Design

D2 – Heritage

Bloomsbury Conservation Area appraisal and management strategy (2011)

Primarily '3.0 Maintaining character', '5.0 Management of change'.

Camden Planning Guidance (SPD) Design (2021)

2. Design Excellence

3. Heritage

London Plan 2021

D4 - Design

HC1 – Heritage conservation and growth

NPPF 2021 – Chapter 12 & Chapter 16

Assessment

Planning history:

None relevant to site.

Enforcement History:

EN21/0079 - Internal staircases have been removed, placing inhabitants of the premises at significant risk in the case of an emergency. **Case closed – no breach found [25-MAR-22].**

Issues:

The main considerations in relation to the unauthorised works are:

- Design and Heritage (the of impact of the unauthorised works on the character and appearance of the host Grade II listed buildings and wider Bloomsbury Conservation Area);

1.0 Design:

1.1 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that area.

1.2 Policy D1 of the Local Plan requires all developments, including alterations and extensions to existing buildings, to be of the highest standard of design and will expect developments to consider: character, setting, context and the form and scale of neighbouring buildings; its contribution to public realm and its impact on views and vistas; and the wider historic environment and buildings, spaces and features of local historic value. Policy D2 will resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and resist development that would cause harm to significance of a listed building through an effect on its setting (conservation area).

1.3 The Bloomsbury Conservation Area appraisal and management document has identified that alterations and extensions can have a detrimental impact either cumulatively or individually on the character and appearance of the area – which includes through the “• Inappropriate external painting, cleaning and pointing of brickwork as well as through the • Loss of original details...”. As such, the document stipulates that development proposals must preserve or enhance the character or appearance of the Bloomsbury Conservation Area. Thus, the Council, under the development control function, will ensure that the historic details which are an essential part of the special architectural character of Bloomsbury Conservation Area are preserved, repaired and reinstated where appropriate. Further, the site under its listed status is considered to positively contribute to the character and correspondingly form a very important part of the historic quality of the Bloomsbury Conservation Area.

1.4 Guidance within Camden’s Design CPG states that the Council will not permit the loss of or substantial harm to a designated heritage asset unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or particular circumstances apply. Balanced judgment having regard to the scale of any harm or loss and the significance of the asset(s) affected, the Council will take account of the desirability of sustaining and enhancing the significance of any heritage asset/s and putting them to viable uses consistent with their conservation; the positive contribution that the conservation of heritage assets can make to sustainable communities including their economic vitality and health and wellbeing; and the desirability of new development that affects heritage assets to preserve and enhance local character and distinctiveness. As such, the Council will only permit development that preserves and where possible enhances the character and appearance of the area.

1.5 The exposed yellow stock brickwork across the front elevation of the site is an important historic feature of the statutorily listed properties. Further, prior to the unauthorised works, the brickwork possessed the visible residue of 150 years of coal fires and steam engines (the patina of age), which has been a discernible characteristic that cannot be recreated through a laissez-faire approach in today’s cleaner environment. It is a characteristic that is considered to provide site and the surrounding buildings (wider setting) their special historic appearance. The site and its neighbouring listed properties are therefore expected to retain their

original facades and features and/or at the very least enquire or apply for the prior requisite consents for works which would have a material effect on the properties' historic interest.

1.6 The first part of the works comprises the extensive cleaning and repointing (with bright lime-based mortar) of the site's brickwork at first and second floor front elevations without the benefit of Listed Building Consent. As a result, the site's facade has been substantially and unequivocally brightened, where part of the historical character of the buildings have been materially altered and lost. When compared to the surrounding buildings, the magnitude of the works' effect is amplified and appears out of character with the setting of the area. Accordingly, the works have implemented a dominant and incongruous addition to the terrace, thus do not relate well to the immediate and wider Conservation Area. Additionally, as the brickwork's prior appearance cannot be recreated in today's cleaner environment, such undertaken works pose an unfortunate and undesirable effect on the appearance of the host buildings and may have already led to long term decorative damage and may be extremely difficult (if not impossible) to reverse/reinstate its original appearance once completed. As such, whilst the Council welcomes the maintenance of Camden's listed buildings, in this particular case, this part of the unauthorised works are considered as unnecessary and excessive, thus inappropriate.

1.7 The second part of the works comprise the recent rendering of No 39's historic brickwork at ground floor to match the painted stucco ground floors of No 31-37. In investigating these breaches it became clear that ground floor front elevation of No 37 had been rendered post listing. The listing description notes the ground floor was painted brickwork, thus has been rendered in painted stucco without consent. However, it appears these works were undertaken over 15 years ago, the Council acknowledges that due to the passage of time the removal of the stucco would cause damage to the underlying brickwork. Accordingly, its removal would not mitigate the overall harm caused. Nonetheless, the unauthorised render at No 37 is considered to detract from the character and appearance of the host building and area as it replaces the listed brick facade with a visually brighter and solid one. This unsympathetic addition contributes to the erosion of the exposed brickwork appearance at the site and the wider conservation area. The Council aims where possible to protect the special historic appearance of buildings (designated and non-designated heritage assets). Accordingly, we consider the rendering of No 39 to be excessive and inappropriate as it further adds to the harmful and undesirable cumulative effect of the unauthorised No 37 ground floor render. As the works at No 39 have been recently undertaken and the render is lime-based, the Council believes the underlying brickwork (whilst it still may be difficult) should be salvaged and restored.

1.8 Whilst we note that the change to the colour of the brickwork of the gauged flat arches and round-headed recesses at no. 39 were recently undertaken, it is unclear at what point this alteration was undertaken to nos. 31-37. The listing description of the properties does not mention whether the gauged flat arches and round-headed recesses at No 31-37 were painted. Accordingly, whilst we alleged that these works were unauthorised, the Council cannot establish when this took place. In conservation terms, we consider the key harm caused to the gauged flat arches and round-headed recesses is within their brightening which has made the red colour more prominent. We consider this harm could be mitigated with the application of a soot wash.

1.9 The third part of the works comprise the dying of the yellow bricks of the gauged flat arch windows and round-headed recesses of No 39 with bright red dye without the benefit of Listed Building Consent. As a result, No 39 has radically departed from its original appearance in a harmful manner and contribute to the harmful appearance of the excessive brightening of the No 31-39 facades. The Council considers that the dye not only pose an unfortunate and undesirable effect on the appearance of the host building but pose a serious risk to the health of it and again may have already led to long term decorative damage and may be extremely difficult (if not impossible) to reverse/reinstate its original appearance once completed. As such, this part of the unauthorised works are also considered inappropriate and will require special attention.

1.10 Overall it is considered that the excessive cleaning of the brickwork at first and second floor elevations of the site inflicts more than substantial harm to the health, special character and historic setting of the host buildings and wider area. It is also considered the rendering and dying of No 39's historic brickwork poses further detrimental and possibly irreversible harm to the health and special character of the host building. It is therefore considered that the works, in aggregate, are not of the highest standard and participate in the threat of eroding the wider historic interest of the Bloomsbury Conservation Area. There is limited to no corresponding public benefit to outweigh the detrimental harm as the benefits are entirely private to the occupiers and business and do not convincingly outweigh the harm caused.

1.11 The Council do not consider that the 'SPAB approach' to return the host buildings back to their prior appearance is appropriate. The SPAB theory explicitly states that you should not seek to return a building to a previous stage in its life by removing later additions and patina, which may tell its story. It came about as a reaction to Victorian attempts to remove "incorrect" Georgian additions from Mediaeval buildings. It takes the

view that all phases of a building's development have narrative value. There is no part of SPAB theory that advocates the bright of buildings. Furthermore, in line with the above, the rendering of No 39's ground floor in painted stucco is clearly harmful to both the appearance of the host building and health of the underlying historic brickwork – to which the damage may be irreversible.

Special regard has been attached to the desirability of preserving the listed building, its setting and its features of special architectural or historic interest, under s.16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

The special character of this building is derived from all the exposed brickwork of the facade, as well as the through its patina of age. By virtue of the harm to the front elevations and loss of patina of age of the buildings, the unauthorised works cause less than substantial harm to the significance of the listed building, without providing public benefit to outweigh the harm. As such, the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

Recommendation:

That the Director, Culture and Environment instruct the Head of Legal Services to issue a Listed Building Enforcement Notice under Section 38 Planning (Listed Building and Conservation Area) Act 1990 as amended, and officers be authorised in the event of non-compliance, to prosecute under section 43 or other appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Without consent, the alteration of the façade:

1. Excessive cleaning of all the brickwork at first and second floor front elevations of Nos 31-39;
2. Dying of the round-headed recesses and the gauged flat arches in bright red dye at the first and second floor front elevations of Nos 31-39;
3. Repointing of all the brickwork with bright lime-based mortar at first and second floor front elevations of Nos 31-39;
4. At No 37, the rendering of the brickwork at ground floor front elevation in painted stucco.
5. At No 39, the rendering of the brickwork at ground floor front elevation in painted stucco.

WHAT ARE YOU REQUIRED TO DO:

1. Apply a light soot wash to the brickwork and jointing at first and second floor front elevations, to match their previous appearance of No 31-39.
2. Completely remove the painted stucco render from No 39's front elevation at ground floor level (making good and reinstating the appearance of the underlying brickwork to match its previous appearance).
3. Remove the bright red dye from the yellow bricks of No 39's round-headed recesses and gauged flat arches, then apply a light soot wash to reinstate their previous appearance.
4. Make good all damages as a result of the above operations.

PERIOD OF COMPLIANCE: 6 months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The work outlined above has been carried out to these Grade II listed buildings without the benefit of Listed Building Consent.
2. The works by virtue of the harm to the brickwork and front elevation is harmful to the special architectural and historic interest of the listed building contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.