



Appeal Decision

Hearing held on 10 December 2024

Site visit made on 10 December 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 6 January 2025

Appeal Ref: APP/X5210/F/23/3334740

31 - 39 Argyle Street, London, WC1H 8EP

- 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 Darren Abela against a listed building enforcement notice issued by the London Borough of Camden
 - The enforcement notice was issued on 30 October 2023
 - The contravention of listed building control alleged in the notice is: without listed building consent: 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.
 - The requirements of the notice are: Apply a light soot wash to the brickwork and jointing at first and second floor front elevations, to match the 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.
 - The period for compliance with the requirements is 6 months.
 - The appeal is made on the grounds set out in section 39(1) (b), (c), (e), (i) and (j) 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 corrected by: the deletion of the words "Nos 31-39" from allegation 2 and their substitution with the words "No39"; and the deletion of allegation 4.
2. Subject to these corrections the appeal is allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the retention of the dying of the round-headed recesses and the gauged flat arches in bright red dye at the first and second floor front elevations of No 39 and the rendering of the brickwork at ground floor front elevation in painted stucco at No39.

Preliminary Matters

3. The appeal concerns a group of listed buildings that are part of a terrace on the east side of Argyle Street, just south of Kings Cross Station. They are now occupied as a hotel but were built originally in the 1830s as separate houses. The whole street is comprised of similar, absolutely typical late Georgian designed terraced houses with basements, constructed from London stock bricks of a yellowish hue. Many are now converted into hotels. A considerable amount of repair and renovation work has gone into the appeal buildings and the Council are concerned that the cleaning of the façades was excessive and that No39 has been significantly altered.
4. It was agreed at the Hearing that the second allegation concerning dying the brickwork red was limited to No39 only and that the 4th allegation, the rendering of No37 was incorrect. The only rendering carried out was to No39. I can correct the allegation to reflect this.

Main Issues

5. The main issues therefore concern the cleaning and repointing of the upper floors of Nos31-39 and the dying of the red brick round head recess at first floor and the flat arches on the first and second floors and the rendering of the ground floor, all at No39. There is considerable overlap in the reasoning between the various grounds of appeal so I shall deal with them together and tease out the specific grounds at the end.

Reasons

6. The buildings were listed in 1974 as part of a larger group Nos27-43. The listing is a fairly general description of their exteriors, but it does note that Nos31 & 33 have rendered ground floors, No35 is stucco, No37 is painted and No41 is entirely painted. One can assume therefore No39 was not painted or rendered. Between then and the acquisition by the appellant, the ground floors of 31-37 were all rendered as they are seen today. The listing also notes the first-floor windows of the group are set in shallow round headed recesses which are "*mostly painted*" as are the gauged brick flat arches above the windows on both the upper floors. Argyle Street lies in the Bloomsbury conservation area which has a high concentration of listed buildings.
7. The appellant was at pains to demonstrate through historic photographs that the appearance of the street and in particular Nos31-39 had changed considerably over time. A photograph probably taken before the second world war shows only one ground floor of the appeal buildings rendered (or possibly painted) and this particular building, No35, also has white painted window recess and surrounds on the upper floors. There is considerable variation in brick tone as well along the terrace, with the ground floor of No31 being considerably lighter than the rest. By 1976 Nos31-37 are all rendered (or painted) at ground floor, while all the upper floor window recesses and arches are painted white. In 1978 Nos35 & 37 are definitely rendered as the lines in the render are picked out in a different colour. Nos31-33 seem to be returned to brick and the photograph confirms No37 is untouched except perhaps for a painted cornice which runs across to No41 above the ground floor. This more clearly shown in 1982 when Nos31-33 are definitely painted white as are all the upper floor windows of Nos31-37. What is clear is that No41 is clearly darker (and dirtier) than No39. The next photograph is 2008 (the first in

colour). Nos31-37 are looking very similar to now. The white paint around the windows has mostly gone (retained only above Nos31-33 within the first floor recesses but not the round headed tops) and the round headed recesses and flat window arches are painted red. No39 is untouched apart from the white cornice. The differences seem to be explained by Nos31 & 33 forming one hotel, Nos35 & 37 a second one and No39 is unattached. In this photograph No41 has been cleaned and is now lighter than the rest. There is very little change in 2019, and from 2008 onwards it is clear that none of the appeal buildings are particularly discoloured but they do have a patina of age.

8. When I looked around the area, I saw that buildings in the street were in a variety of states. There were some very dark and dirty ones on the opposite side of the road, and part of the Wardonia hotel at the end of the street was particularly black. The appeal buildings now have a uniform appearance as No39 has been rendered and the arches painted red to match Nos31-37 and the whole has been cleaned and re-pointed. There is no dispute that considerable works were needed to the buildings and these appear to have been carried out professionally and using the correct materials. The Council's concern is twofold. Firstly that No39 has lost its separate identity and been homogenised into the group while the cleaning has gone too far. The buildings stand out, looking almost like new. The appellant accepts the rendering and painting of No39 was a mistake. It was not meant to happen, but now that it has it should remain. However, they argue the cleaning is perfectly reasonable. So what that the building looks like new? They say it will soon fade and in any event is part and parcel of the changes to the terrace that have occurred over time.

The red dyed brick arches at No39

9. Before the Hearing the appellant organised a trial cleaning of red dyed bricks which was attended by the Council. This was intended to demonstrate whether the red dye in the bricks in the window arches could be removed. Unfortunately the results were contested. There are 2 main ways of cleaning brickwork, DOFF and TORC. DOFF is a steam cleaner, that was used for the general cleaning of the appeal buildings, and is relatively gentle. This had no effect on the dyed bricks. TORC is a more aggressive cleaning system involving the use of aggregate and water under pressure. This inevitably causes some damage to the surface of the bricks. Various bricks were dyed and then 'cleaned' in the trial and four examples were brought to the Hearing.
10. What I took from the trial results and the Hearing discussion was that at low pressures (1 or 2 bar) there was very little improvement. At 6 bar the bricks were more or less cleaned up. The remaining small patches of red dye would be virtually invisible from street level. But the bricks themselves were damaged. The surface fireskin was removed and parts chipped off. The Council were happy that at 3 bar pressure the bricks were clean enough to pass muster, and the damage was limited. In their view the minor level of harm to the brick was outweighed by the value of removing the red dye.
11. The photographs and the report provided in the statement of common ground appeared to me to support the Council's view that sufficient dye could be removed so that the bricks would look similar to their neighbours (also very clean at the moment) with little harm to the exterior of the brick. However, the appellant pointed out the red dye had only been applied a couple of days

before the test, whereas that on the building had been up for several years so would be harder to remove. It was likely the bricks would end up a slightly different, more orange hue, that would look equally out of place. I shall bare this in mind.

Ground floor render to No39

12. The rendering of the ground floor of No39 is a trickier issue. The appellants expert advice from Mr Malone was that the ground floors of brick buildings tended to suffer the worse wear, so that the quality of the upper floors is not necessarily an indication of what the ground floor would have looked like once cleaned. It seems the cement render to Nos31-37 was removed and replaced with a more appropriate lime-based render. At the same time No39 was rendered by mistake. A photograph shows the poor state of the bricks on Nos31-37 once the old cement render was removed and it is clear the wall needed re-rendering. However, No39 was not rendered. Although Mr Malone reports the brickwork to No39 was in a similar poor state this is based on what he was told, rather than direct observation. His view was that rendering was necessary to protect the facade, but this seems a somewhat heroic assumption.
13. However, that is not really the issue, as the Council want the new render removed and the brickwork repointed. Mr Malone's view was that removing the render by hand tools would inevitably cause some damage to the bricks, as would then removing the white stain that was left. This seemed to me to be a matter of commonsense. I do not actually know what state the bricks were in when rendered, nor do I know what state they would be in when the render was removed, but it seems likely that even if they were actually ok for just repointing at the original stage when they were rendered, they would now be in a worse state once de-rendered. I cannot wholly set aside Mr Malones expert opinion, especially at it tends towards my own view that adding damage onto already possibly damaged brickwork should only be attempted if absolutely necessary. There is no scope for varying the requirement to provide for a test panel to be removed as this would introduce an unacceptable level of uncertainty.

Cleaning of the façade and the proposed sootwash

14. The Bloomsbury conservation area appraisal warns against inappropriate cleaning of buildings and the Council argue that the application of a light soot wash is a standard technique used in the Borough to bring cleaned or new brickwork back into conformity with its surroundings. The appellant was concerned at the lack of certainty. How do you define "light soot wash"? If there was later disagreement they could end up in court and there was no mechanism to provide for a shade to be agreed in advance.
15. I agree the requirements could not be altered to allow a scheme to be agreed, it is common knowledge that would fail for uncertainty. However, I do not believe a requirement that linked the new colour to the neighbour at No41 would be uncertain. It was quite clear that what was required was a simple dampening down of the brightly cleaned façade to tone in and I consider this could be done by a variation of the requirement.
16. No41 was a controversial subject during the Hearing. It is owned by the Council and it is quite obvious that at some time between 1982 and 2008 it

was sandblasted. I was invited to feel the texture of the brick which was very smooth compared to a normal brick. It had therefore gone from being darker than No37 to being lighter. Now it is back to being darker as No37 is lighter. However, whatever the merits of the way that building has been treated in the past it still stands as a building with a façade of a particular hue that can be matched quite easily by the appellant if necessary.

17. The appellant opposes the use of a sootwash as unhistorical and against the principles laid down by SPAB¹. They argue the terrace has undergone many changes over the years, even since listing in the 1970s. The cleaning of the appeal buildings is just part of this ongoing process. The Council argued that this line of reasoning would support any changes being made to listed buildings, regardless of the harm caused. I disagree as the changes referred to by the appellant are all differing aspects of how to present the buildings to their best advantage. Some have been painted, others rendered, some cleaned and several have been through various iterations. None of these changes are inherently harmful and all are typical of Georgian buildings throughout the capital. There is a significant difference between these changes and say the introduction of UPVC windows or unsympathetic extensions. I have no problem with changes being made that are genuinely part of the historic story of the street.
18. I agree that the buildings now do stand out in the street, but perhaps not quite as dramatically as the Council maintain. However, the question is whether that has harmed their significance or not? I note that they simply have been cleaned. They have not been damaged or altered or added to in any way. They now look more like they would have done when first built, but I am unsure why that, in itself, is harmful.
19. The Council argued that cleaning the building was removing the patina of age that was an important part of the buildings' history. It harked back to the days of steam (the site is close to Kings Cross and St Pancras), and to a time before the clean air acts of the 1950s. The appellant however, provided a convincing case that the buildings had been cleaned several times since their erection and so the dirt removed recently was not part of the patina of age but more recent vehicular pollution, which has no historic value. I am also not entirely convinced that the patina of age argument has much force when considering cleaning of domestic buildings. I agree with the appellant it has more force if the building in question is linked in some way to the dirt. For example a railway shed, or factory building, but even so the cleaning of many historic railway and factory buildings is generally considered a good thing.
20. There is more force in the argument that a clean building amidst much dirtier ones stands out and is jarring. I note that many of the examples provided by the council where a sootwash was required deal with individual houses in a terrace or parts of a building that have been repaired or rebuilt. The result is to provide a blending in with the rest of the buildings. I still have some difficulty in seeing how this is related to the significance of the listed building. It is clearly an aesthetic issue, but does it harm the significance of a listed building if it is cleaner than its neighbours? It might if those neighbours were of a uniform colour and hue and that uniformity was important, but I do not think that is the case here. The five buildings now form a uniform, single hotel

¹ Society for the Protection of Ancient Buildings

building, and that is what they look like. They are clearly but not jarringly different from their neighbours which do not have rendered ground floors or red painted window arches. Yes, they are cleaner, but not so much so that they appear incongruous. As a group they now look quite impressive and they now dominate this part of the terrace in a good way, rather than standing out harmfully. The conservation area appraisal notes for Argyle Street the unsympathetic replacement of windows and doors and rash of signage, but on the positive side the relative homogeneity of the buildings. If anything the changes wrought by the appellant have respected this analysis.

21. I realise that by referencing uniformity I might be accused of making a circular argument. The whole point of No39 is that it is only like the others because of the unlawful works. I agree, No39 has been altered and those alterations cause less than substantial harm. However, as noted above, they are not unhistoric alterations. If you didn't know, there are no visual clues that it was ever different. The changes therefore fall at the lesser end of the scale of less than substantial harm. This is outweighed by the public good of avoiding the risk of further damage by trying to rectify the harm and removing the render.
22. Given that conclusion I consider that on balance, although cleaning of the red dye might well work, the rewards do not outweigh the small chance of harm. In particular if the render is to remain the removal of the red dye would not return the building to its previous state, in fact it might look worse as the window arches might neither match the main hotel nor the neighbour at No41. Consequently, in this instance I consider that, on balance, Nos31-39 should remain as they are and that further intervention is not needed (sootwashing) or would be potentially more harmful (de-rendering and removing the red dye). I shall therefore quash the notice and grant listed building consent for the works as necessary.

Other Matters

23. Much was made concerning the SPAB guidance as set out in their explanation of their approach to conservation. The guidance is based on a concern for the negative outcomes caused by restoration or repair. Returning a building to a perfect state can require the unnecessary renewal of worn features or reconstruction of missing elements. This does not address cleaning directly and both parties picked out some of the principles to support their arguments. The appellant pointed to the principle that work should not be concealed deliberately or artificially aged. But that referred to repair work, which is entirely different to cleaning. The Council referred to the respect for age, where signs of age deserve respect as they part of the inherent quality of an old building. But again, this is not the same as cleaning and I have discussed above whether the dirt is part of the historic value of the building.
24. The rendering and painting of No39 certainly fell foul of the SPAB principles, but I have explained why, on balance, they should remain. However, I consider the cleaning does not. It may appear to be an attempt at restoration, but it does not damage the building, it will change over time quite naturally, and there has been no loss of fabric or romance. The Council argued there was a loss of authenticity, but I have disagreed.

Conclusion

25. Because I do not consider the cleaning has had an impact on the significance of the listed buildings and did not affect their character as buildings of special architectural or historic interest, there has been no contravention of section 9(1) or (2) of the Act. So that part of the appeal (allegations 1 and 3) succeed on ground (c). The painting of the window arches and rendering of the ground floor at No39 did cause less than substantial harm, but for the reasons given above listed building consent should be granted for them. So allegations 2 and 5 (as varied) succeed on ground (e). Allegation 4 is deleted. The other grounds do not need to be considered.

Simon Hand

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Kelly – Planning Lawyer

Joe Malone – Malone Associates Ltd

David Hickie – Heritage Matters

Darren Abela - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Joshua Cheung – Planning Enforcement

Nick Baxter – Senior Conservation Officer

Elizabeth Beaumont – Enforcement Team Manager

DOCUMENTS

Photograph archive provided by appellant