
SKELETON GROUNDS OF APPEAL

APPEAL AGAINST LONDON BOROUGH OF CAMDEN DECISION TO ISSUE A LISTED BUILDING
ENFORCEMENT NOTICE DATED 24TH APRIL 2017

1. The Enforcement Notice (“EN”) comes into effect before the 5th June 2017 unless an appeal is lodged prior to that date. The alleged contravention is set out in the EN.
2. This is an appeal under s39 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Local Planning Authority (“The LPA”) do not allege a breach of condition and so the Appellant does not rely on ground (k) – That the steps required to be taken by virtue of section 38 (2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
3. Section 1 of the EN alleges contravention of Section 8 of the Act, in respect of the building within a Conservation Area.

Alleged Contravention

4. The alleged contravention is; without listed building consent – Inappropriate partition work, damage to decorative plaster cornice, removal of decorative fireplaces, inappropriate sealing of door opening and installation of a casement rear window in place of traditional timber sash unit.

Reason for issuing the Notice

5. The reason for issuing the notice is as follows:

(a) The work outlined above has been carried out to this Grade II listed building without the benefit of Listed Building Consent

(b) The unauthorized works, including the alterations to partitions, damage to decorative plasterwork, installation of door panel and removal of decorative fireplaces are detrimental to the special architectural and historic interest of the building, contrary to policy of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies and Policy D2 (Heritage) of the Camden Local Plan Submission Draft 2016.

6. In terms of what is required to be done in order to comply, then the EN offers two options:

OPTION A – To remove the unauthorized partition, fireplaces, door panels and window and completely reinstate the plan form, fireplaces, cornices and window to match the original as “existing” on drawing 1610-10 REV F and the rear window to be reinstated in accordance with drawing 1610-20 Rev B granted listed building consent on 4th August 2016 (ref 2016/2487/L)

OR

OPTION B – To remove the unauthorized partition, fireplaces and door panel and reinstate the decorative plasterwork and window, carrying out the partitioning, fire-place installation, door sealing and window works fully in accordance with drawing 1610-10 REV F 1610-11 REV B 1610-12 REV A and 1610-20 REV B granted listed building consent on 4th August 2016 (ref 2016/2487/L)

7. The Local Planning Authority (“The LPA”) require a 6 month compliance period.

The Appellant’s case

Validity

8. The EN is not precise. The accompanying plan (location plan 1:1250) fails to distinguish which flat is subject to the Enforcement Notice. The plan outlines the entire building.

9. Section 1 of the EN alleges contravention of Section 8 of the Act, in respect of the building within a Conservation Area. The Appellant contends that this matter does not relate to the contravention and is an error.

10. The requirements of the Listed Building Enforcement Notice consist in part the installation or reinstatement of a window. The Appellant argues the installation of a window on a listed building in a conservation area requires planning permission together with listed building consent. The LPA require the Inspector to uphold the EN which require works to be undertaken that require also planning permission which goes beyond the scope of the Planning (Listed Buildings And Conservation Areas) Act 1990. Equally to grant listed building consent for the in situ window could prejudice the outcome of a planning application. The outcome could be the grant of listed building consent for window works by way of appeal without planning approval.

11. The Enforcement Notice is not precise as it fails to identify the alleged areas of damage to cornice, which partition wall of part of and which side of the door is the EN referring to. The matter of precision is important for the purposes of compliance and the implications of prosecution.

12. In addition, the reasons for issuing the notice section b relate to development plan policies. The works subject to the Notice (other than the window) do not constitute development and consequently it is argued that development plan policies do not apply.

Ground B – That those matters alleged have not occurred

13. In regards to the fireplaces – the surrounds are as existing. The fire place was boarded. The works consisted of removal of the boarding only and re-instate the existing frame.

14. In regard to the rear window – the rear window is existing. No new window was inserted.

15. A Statutory Declaration will be provided.

Ground C – That those matters do not constitute such a contravention

16. The existing fireplace surround was reinstated in line with the grant of listed building consent.

17. A Statutory Declaration will be provided

Ground E - That Listed Building Consent ought to be granted

18. Listed Building Consent was granted under reference 2016/2487/L. The contravention alleged by the LPA is the inappropriate partition work, damage to decorative plaster cornice, removal of decorative fireplaces, inappropriate sealing of door opening and installation of a casement rear window in place of traditional timber sash unit.

19. The Appellant will argue that works undertaken consist of a general refurbishment of the ground floor flat within the grade II listed building. The proposal replaces and repositions the bathroom and kitchen which was partitioned in the rear room and relocates it to the front room. The overall outcome is one of a benefit as it reintroduces the historic two room plan form layout. The kitchen units affix to the new bathroom wall, containing the new services in a central position and creating least disturbance to the historic walls.

20. The window in situ is as existing. The plaster cornice was removed and relocated to the back room in line with the listed building consent.

21. Ground F – That copies of the notice were not served as required section 38(4)

22. The Appellant was not served with a copy of the EN. The Appellant is the leaseholder of the flat (not occupier). The Appellant is Raphael Bude. Mr

Bude completed the purchase of a long term lease on 30th January 2017. The Appellant is not on the list of service. The LPA should provide evidence that an up-to-date land registry search was undertaken prior to the service of the EN to ensure all interested parties including mortgage companies were served. The EN was also served on owners or tenants who have no interest in the subject flat other than residing within the same building.

Ground G – The steps are excessive

23. In relation to Options (a): This ground is only argued if the LPA are requiring the removal of the kitchen and bathroom. To require the removal of the partitions and reinstatement of the plan form (i.e. two rooms only) as set out would lead to one room serving a kitchen and bathroom. This would not meet building regulations and render the flat uninhabitable and/or un-saleable. If the LPA's EN is requiring the layout to revert to existing as set out in the plan including the location of partitions and kitchen and bathrooms then this Ground will be removed from the Appellant's case in favour of Ground I. For the avoidance of doubt, the EN allows for the compliance of option (a) or (b) and not a combination of both.

Ground H – More time required

24. The LPA require compliance within six months. The Appellant will argue that more time is required to allow time for the occupier (who had no hand to play in the said works) to temporarily vacate the building at a convenient period of time for the works to be completed.

Ground I - The steps would not serve its purpose

25. Option (a) The Appellant will argue that to reinstate the “as existing” in relation to some or all of the alleged contravention would be less beneficial to the character of the building than the current arrangement.