



Appeal Decision

Site visit made on 18 December 2018

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 January 2018

Appeal Ref: APP/X5210/F/18/3201240

104 Rowley Way, London NW8 0SW

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr A Moussaioff against a listed building enforcement notice (LBEN) issued by the London Borough of Camden (the LPA).
 - The enforcement notice, numbered EN17/0266 was issued on 15 March 2018.
 - The contraventions of listed building control alleged in the notice are as follows: unauthorised alterations to a Grade II * listed building including removal of internal fabric, altering the original layout at upper floor level through installation of doors and walls. Painting white the balcony area.
 - The requirements of the notice are as follows:
 - a) Reinstatement of the original layout on the upper floor of the property by removing non-original partition walls and the two hinged doors and reinstating the sliding door to match the original.
 - b) Restoring balcony area to original colour by removing all white paint from surfaces on the balcony.
 - c) Make good any damage caused as a result of the above works.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on grounds (c), (e) and (h) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is allowed in part on ground (h) only and the LBEN is varied in relation to requirement (a). Otherwise the appeal is dismissed. See formal decision below.

Background information

2. The appeal property is a two-bedroom, two floor maisonette within the Alexandra Road Estate. This is a residential estate of 520 dwellings in Camden designed in 1968 by Neave Brown of the London Borough of Camden Architects Department. It was built between 1972 and 1978 and is recognised as being amongst the most ambitious social housing schemes of its time, as one of a series of low rise, high density schemes. The majority of the estate was listed Grade II* in 1993 and it lies within the Alexandra Road Conservation Area (ARCA).

3. Complaints were made to the Council in 2016 relating to unauthorised internal alterations to the maisonette and external painting to the balcony area. The complaint was made on the basis that the second floor level had been altered by the alleged removal of a sliding door; its replacement with a hinged door and an access door to the staircase and an additional wall and door. This created two separate rooms on this level and blocked off the staircase which was originally accessed from the open plan living room. The external alterations include the painting white of the balcony area, the concrete lintel above the window and the edges of the planters.

4. The appellant had been given an opportunity to submit a retrospective listed building consent application for the works as carried out. However, due to insufficient information being provided, the application was never validated. The Council then considered it expedient to issue a LBEN following the preparation of a delegated enforcement report.

5. Because the appeal property is listed in Grade II* and lies within the ARCA, I have had special regard and paid special attention to the requirements of sections 16(2) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA). Relevant policies include policy D2 (Heritage) of the Camden Local Plan 2017 (CLP) and national policies within the revised National Planning Policy Framework (NPPF) and in particular those set out in Section 16.

The appeal on ground (c)

6. It is argued on behalf of the appellant that the interior features of the building are not contained within the list description. This may well be the case but the whole of this Grade II* development is 'listed'. The listing applies as much to the interior layouts and features, as it does to the external elevations and works. In any case the appellant's arguments under this ground are misplaced.

7. To be successful on ground (c) it must be comprehensively shown that the works carried out (the internal alterations and the external painting) do not constitute a contravention of sections 7 and 8 of the PLBCAA. Section 7 of the PLBCAA states that *'Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest unless the works are authorised'* (my underlining). Section 8 sets out when works to a listed building are authorised.

8. There is clearly a dispute about whether or not a sliding screen was removed from the upper level but it is clear that the 2000 lease plan (open plan upper level) did not show the layout which is now in place and which I saw during my site visit. The alterations at this level may not have been carried out by the appellant but there is no time limit for a LPA to take listed building enforcement action. The relevant question, therefore, on this ground (c) appeal is whether or not the works as carried out have affected the character of the listed building, as one of special architectural and historic interest. This is irrespective of whether or not the works are considered to be harmful to the building or who was responsible for the works.

9. Having seen the internal alterations to the upper level of the maisonette, as well as the painting of the balcony etc, I consider that the works as carried have affected the character of the building. The former open plan internal space has been noticeably altered and the scale and proportions of the rooms have been changed. Even if a 'sliding door' or screen had not been removed the open-plan characteristics of the original design of the listed building have been affected by the works.

10. These internal changes, in my view, have significantly altered the character of this particular maisonette. I also consider that the external painting, when seen in the overall context of the exterior of the structure, has also affected the character of the listed building as one of special architectural and historic interest. With no Listed Building Consent (LBC) in place for these changes, which have affected the character of the building, there has been a contravention of the PLBCAA. The appeal on ground (c), therefore, must fail.

The appeal on ground (e)

11. The main issues in relation to the internal and external works are as follows: firstly their effect on the integrity and character of the listed building; on its setting and on its features of special architectural and historic interest and, secondly, the effect on the character and appearance of the ARCA.

The internal works

12. Having seen the internal alterations as carried out I consider that they are inappropriate interventions within this widely recognised and respected modern architectural scheme. They have been described on behalf of the appellant as being minimalist and reversible. However, they completely alter the initial design concept of the maisonette and, in my view, detract markedly from its integrity and character. The works have detrimentally affected the integrity of the interior of the listed building by altering the original plan form which is recognised as being one of its main original special architectural and historic design features.

13. Following my site visit I asked for the Council's clarification regarding the alleged existence/removal of the sliding screen. I have noted their answers and submissions in relation to the questions I raised, as well as the submissions by the third party complainant. I have also taken into account the appellant's comments in response to the Council's answers and submissions. From all of the facts of the case; from my site visit and from all of the other submissions, I consider that there is still some doubt that the unauthorised alterations involved the removal of a 'sliding screen' between the kitchen and the original lounge. Irrespective of my conclusions on the other unauthorised works carried out, I will, therefore, therefore vary the requirements of the notice by removing the requirement to 'reinstate a sliding screen'. In my view to retain this part of the requirements would be unreasonable and could cause injustice.

14. I acknowledge that the Architectural Review article referred to such screens and that such a feature could have been removed between 1993 (date of listing) and the drawing up of the lease plan in 2000. However, the Council, in my view, has not categorically shown that such a screen was removed. There is no conclusive evidence to indicate that this was the case. There is, however, conclusive evidence that the open plan layout (as shown on the 2000 lease plan) has been altered. As indicated above, I consider that the works carried out to form another room on this upper level are harmful to the integrity and the character of the listed building. I do not consider, therefore that LBC should be granted for the internal alterations on the upper level of this maisonette.

The painting of the balcony

15. Having seen the white painted balcony and planters from both near and distant viewpoints, I again share the LPA's concerns about the impact of the works on the character of the listed building and its setting. The overall detailing of the exterior of the concrete structures on the estate presents a coherent and well-ordered design. The colour of the finished structural components is a major element in forming its overall character and appearance and I note that it was the intention to ensure that the original finished concrete colour was to be retained.

16. However, in my view, the random highlighting (in white) of a small section of the structure (such as this particular balcony and planters) by painting it white detracts markedly from the coherence of the character and appearance of the external elevations of the listed building. It is another insensitive visual intervention to the elevation and I consider that it detrimentally affects the integrity and character

of the building, as well as its setting. Again, therefore I do not consider that LBC ought to be granted for these works.

17. I accept that many other external balcony areas have been inappropriately altered and it is more than likely that many unauthorised internal alterations have been carried out on the estate. The external alterations are clearly obvious. These include painting; the erection of veranda screens; canopies and satellite dishes. However these works cannot justify further inappropriate alterations to these important Grade II* listed buildings.

18. The fact that the appeal works are reversible or even temporary does not, in my view, justify their retention. I consider that the works are contrary to the heritage policy D2 of the Camden Local Plan as well as to national policies within the NPPF which aim to conserve and enhance the historic environment. I do not, therefore, consider that listed building consent should be granted for either the internal alterations or the external painting. The appeal fails on ground (e) therefore in relation to these unauthorised works carried out in contravention of the PLBCAA.

19. Although I sympathise with the appellant's situation (in that he was not responsible for the works), I consider that to allow LBC in this case would undermine both local and national policies relating to the conservation and enhancement of heritage assets within the Borough. In order to protect the integrity of this important estate the Council needs to continue to take any necessary enforcement action to ensure that inappropriate internal and external alterations are not allowed to proliferate.

20. I have concluded that the unauthorised works have been harmful to the listed building and it follows that the external painting has neither preserved nor enhanced the character or appearance of the ARCA.

21. As indicated above, I have noted the other alterations to the listed buildings which are brought to my attention (submitted photographs) on behalf of the appellants. However, rather than supporting the appellant's case, they reinforce my view that such random interventions detract markedly from the integrity, character and setting of the listed buildings, as well as harming some of the special architectural and historic features. The fact that the Council would have difficulty in resisting further applications or taking further enforcement action, if these works were found to be acceptable, reinforces my view that LBC should be withheld in this case.

22. In conclusion on ground (e) I consider that the works are contrary to both local and national policies which seek to conserve and enhance the historic environment. Even though I find the harm to the interior and exterior of the listed building to be less than substantial, there are no public benefits accruing from the works which outweigh the harm which I have identified.

The appeal on ground (h)

23. On this ground of appeal it is stated on behalf of the appellant that the concern relates primarily to the need to allow for an adequate period of time to allow a tenant to be re-housed in a London Borough with a significantly acute housing shortage. A 6 month period is suggested. Subject to my findings the Council has indicated that it would not raise any objection to extending the timeframe for compliance.

24. The works required to comply with the requirements will not in themselves require a 6 month period. The internal works are not extensive and the removal of the white paint would not be particularly onerous. However, I acknowledge the argument relating to the tenancy. Based on the fact that a 6 month period is a

reasonable length of time for an Assured Shorthold Tenancy, I consider that the compliance period should be extended as requested. The appeal succeeds to this limited degree and I shall vary the LBEN accordingly.

Other Matters

25. As indicated above I have taken into account the comments by a third party/interested person. Whilst noting the matters raised relating to health and safety, these are not material to the effect of the works on the listed building. Such matters in any case are matters for other functions of the Council.

26. In reaching my conclusions I have taken into account all of the representations made by and on behalf of the appellant, by the Council and by interested persons. These include the initial grounds of appeal; the detailed statements and submissions; all of the policy and guidance considerations; the planning history; the photographic submissions and both the Council's and the appellant's detailed answers and comments to my post site visit queries. However, none of these carries sufficient weight to alter my conclusions on any of the grounds of appeal and nor is any other factor of such significance so as to change my decision.

Formal Decision

27. The appeal succeeds to a limited degree on ground (h) and I direct that the listed building enforcement notice be varied by deleting the figure '3' in the first line of part 5 (WHAT YOU ARE REQUIRED TO DO) and by substituting therefor the figure '6'.

28. I also direct that the listed building enforcement notice be varied by deleting the words '*and reinstating the sliding door to match the original*' in part 5 a) of the notice. (WHAT YOU ARE REQUIRED TO DO).

29. Otherwise the appeal is dismissed and the listed building enforcement notice is upheld as varied. Listed Building Consent is refused for the works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Anthony J Wharton

Inspector