
Appeal Decision

Site visit made on 8 September 2016

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 21 September 2016

Appeal Ref: APP/V5570/F/16/3143100
232 Seven Sisters Road, London, N4 3NX

- 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 The Incorporated Trustees of the Universal Church of the Kingdom of God (UCKG) against a listed building enforcement notice issued by the London Borough of Islington.
 - The enforcement notice, numbered E/2014/0287 was issued on 17 December 2015.
 - The contravention of listed building control alleged in the notice is:
 - i) Without the necessary listed building consent alterations to facing faience involving the replacement of original faience with non-matching materials on all elevations of the premises.
 - ii) Without the necessary listed building consent, the installation of black cablings and Ansell spot lights on the front elevation of the premises facing Seven Sisters Road and Isledon Road at first floor level.
 - The requirements of the notice are;
 - i) Remove all new faience (green and grey colour) from all elevations of the premises and replace with facing faience that match exactly the original faience and mortar joints in respect of colour, texture and profile.
 - ii) Remove all black cablings, Ansell spot lights and all associated fixtures and fittings from the front elevation of the premises and their constituent elements from the land; and
 - iii) Upon completing steps (i) and (ii) repair any damage to the building with materials to match the original fabric of the premises.
 - The period for compliance with the requirements is 5 months.
 - The appeal is made on the grounds set out in section 39(1) (c), (d), (e), (g), (h), (i), (j) and (k) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - **Summary of Decision: appeal allowed, notice quashed and listed building consent granted.**
-

Appeal Site

1. The appeal property is the former Rainbow Theatre now occupied by the religious charity UCKG. It is a grade II* listed building prominently sited at the junction of Seven Sisters Road and Isledon Road. The building is noted for its elaborate Hispano-Moresque interior and its 4000 seat capacity, making it one of the largest cinemas in the world in 1930. The listing description refers to "white faience with green faience dressings to wedge shaped front.., red brick to the rear.."
-

Relevant Planning History

2. Listed building consent was granted in August 2013 (2013/1295/LBC) for the proposed cleaning of faience tiles, removal and replacement of existing faience tiles, ashlar tiles, quoin units and cornice units, subject to conditions. Condition 3 stated "All new facing faience and mortar joints shall exactly match the original faience and mortar joints in respect of colour, texture and profile. The following shall be submitted to and approved in writing by the local planning authority prior to the relevant works commencing: Condition report that assesses the condition of the faience and justifies any areas of replacement over repair; A test patch of repaired/replaced faience. An application for the approval of details." This condition was discharged in January 2014 following the submission of the relevant details (P2013/4048/AOD).

Reasons

Appeal on ground (c)

3. An appeal on this ground is that the matters if they occurred do not constitute a contravention.
4. The allegation in the enforcement notice relates to two distinct breaches of listed building control, firstly in respect to the colour of the replacement faience, and secondly, in respect of the installation of cabling and spotlights. The appellant acknowledges that the latter has occurred and requires consent but was unaware that it was necessary and points out that the black cabling had been present for many years.
5. However, despite the 2013 application for listed building consent, the appellant argues in respect of the faience that as no alterations have taken place and the works only relate to cleaning, repairs and replacement with similar materials (and referring to relevant parts of the application form and planning/heritage statement in support), no contravention has occurred. Notwithstanding the appellant's current explanation of the reference to cleaning, repair and replacement being included in an application for consent as part of a wider application for advertisements on the building, the appellant does not appear to have challenged the Council's processing of the application at the time.
6. In determining whether listed building consent is required it is necessary to consider whether the alleged works have been such as to affect the character of the building as one of special architectural and historic interest. Had the replacement of the faience been of a closer colour match, arguably it would not have affected the character of the building and listed building consent would not have been required. In the event, at the time that the Council considered the expediency of enforcement action, they were of the view that the replacement faience contrasted with the existing faience to the extent that the Condition 3 of the 2013 consent and the appellant's statement in the submission of details in connection with that condition had not been satisfied, and character of the building had changed.
7. In view of the variation of colour shades of both the green and the grey/beige faience, this has introduced a difference in the appearance in parts of the façade of the building which in my judgement affects the character of a building of special interest.

8. The appeal on this ground fails.

Appeal on ground (d)

9. An appeal on this ground is that the works were urgently necessary in the interests of safety or health or, as the case may be, the preservation of the building by works of repair or works affording temporary support or shelter, and the works carried out were limited to the minimum measures immediately necessary.
10. Although the appellant pleads this ground, no evidence has been submitted that supports the contention that urgent works to the faience were necessary to protect the public, particularly bearing in mind that the appellant had engaged professional advisors and had submitted documentation to the Council in connection with the listed building application and the discharge of conditions, none of which highlighted imminent public safety issues.
11. Similarly, whilst perimeter lighting might be highly desirable to deter vandalism, this does not justify that the cabling and lights were urgently necessary in the interests of health and safety or for the preservation of the building.
12. The appeal on this ground fails.

Appeal on ground (e)

13. An appeal on this ground is that listed building consent ought to be granted for the works, or that any relevant conditions of such consent which has been granted ought to be discharged, or different conditions substituted. The main issue in the ground (e) appeal is whether the works subject to the notice preserve the listed building or its setting or any features of special architectural or historic interest it possesses.

Faience

14. The time of my site inspection was early afternoon on a sunny and bright day when lighting conditions would have shown the colours and texture of the faience at their most visible.
15. From street level the replacement faience was most evident at close quarters where individual faience tiles could be identified or where small patches had been cut out and replaced. The replacement faience at higher levels or when viewed from the other side of Seven Sisters Road or Isledon Road was less obvious.
16. The visual impact of the new faience did not appear to be as great as that shown in the photographs attached to Appendix SK4-1 of the Council's submissions.
17. My overall impression was of a building clad in a variety of shades of green on the large panels on the front façade and off white/pale grey/beige/sand on the other elevations. I did not get the impression that the original faience was of a consistent green or consistent grey/beige as there is much variation in colour shade and texture which is explained by the appellant as resulting from inappropriate chemical cleaning, loss of glazing and weathering. Evidence of the faience being white as referred to in the listing description certainly was not

apparent. I noted also that despite the recent cleaning or replacement of faience, accretion of dirt at pavement level was having a deleterious effect.

18. The appellant has gone to considerable lengths to restore the façade of the building and has employed experts in the field to produce replacement faience. In my view, due to the variation in the colours of the original faience, it would have been an extremely difficult task to achieve an exact match as specified by the condition but even had this been achievable there would still have been some variation in colour shades from the original. I accept that it would have been helpful had there been a greater dialogue between the Council and the appellant's specialist advisors when it became apparent that the new faience would not exactly match the original.
19. However, this was not done. The character of the listed building has been affected by the works and it is necessary to consider the degree of harm that has been caused. The colour of the faience could have been less of a green hue which may have lessened the visibility of some of the replacement tiles but for the reasons given above, due to the variety of colours in the façade, the degree of harm caused to the listed building, whilst not de minimis, is nevertheless very slight. Additionally, it is not without precedent for listed building repairs to remain obvious to the observer so that original fabric can be contrasted with repaired or replacement fabric. The appellant has suggested a condition could be imposed on a listed building consent to require the artificial weathering of the tiles but I do not consider that such a condition is either necessary or desirable as in time the new tiles should become less prominent due to natural processes.
20. In the context of paragraph 134 of the National Planning Policy Framework relating to conserving and enhancing the historic environment, I consider that the degree of harm to the listed building as a heritage asset is 'less than substantial harm'. Against this needs to be weighed the public benefits of the work which in this case is the repair and replacement of the faience which had it not been attended to would have continued to deteriorate and led to a deterioration in the important façade of the listed building and the contribution it makes to the street scene.
21. I have also had regard to the representations submitted in support of the various works to the building.
22. For the reasons given above I conclude that the appeal should succeed so far as it relates to the faience.

Cabling and Lights

23. The Ansell down light spotlights were introduced specifically to address problems of anti-social behaviour, particularly in the vicinity of the public toilet. The uplighters on Seven Sisters Road provide illumination of the building façade. The lights are regularly placed on the building facades and relate to the architectural rhythm of the building but due to their size and colour, they are prominent additions. The appellant has suggested that the upward illuminating spotlights could be removed and that the number of downward facing security lights reduced in number. This suggestion would significantly reduce the harm to the building that the lights currently cause but would still enable security to be maintained. I propose to impose an appropriate condition.

24. The black cabling has been present for many years and serves CCTV, network providers and illumination. It is prominent on the facades of the building and untidy in parts. The appellant has suggested that the cabling could be boxed in with concealing trunking without any permanent damage to the fabric of the building. I am satisfied that appropriately sized, coloured and located trunking would reduce the harm to the character of the listed building.
25. The purpose of condition 2 is to require the appellant to comply with a strict timetable for dealing with the concealment of the cabling which needs to be addressed in order to make the works acceptable. The condition therefore provides for the loss of the effective benefit of the grant of consent where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the listed building consent falls away.
26. For the reasons given above I conclude that the appeal should also succeed in respect of the cabling and lights.

Appeals on grounds (i), (g), (j) and (k)

27. As the appeal succeeds on ground (e), it is unnecessary to consider the appellants further grounds of appeal.

Conclusion

28. I have had regard to Policy CS9 of Islington's Core Strategy 2011 regarding the conservation and enhancement of the historic environment and to the other policies and guidelines referred to by the Council but for the reasons given above I conclude that the appeal should succeed.

Decision

29. The appeal is allowed and the listed building enforcement notice is quashed. Listed building consent is granted for the retention of alterations to facing faience involving the replacement of original faience with non-matching materials on all elevations of the premises and the installation of black cablings and Ansell spot lights on the front elevation of the premises facing Seven Sisters Road and Isledon Road at first floor level at 232 Seven Sisters Road, London, N4 3NX subject to the following conditions:
- 1 The number of spotlights shall be limited in number to seven and positioned as shown as set out in Drawing No E.02 dated 01.16.
 - 2 The external cabling hereby permitted shall be removed and all cabling and associated materials shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within one month of the date of this decision a scheme for the installation of trunking for the concealment of the cabling on the faience clad facades of the listed building, including full details, colour and size, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- ii) If within four months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

P N Jarratt

Inspector