
Appeal Decision

Site visit made on 4 October 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 10 October 2016

Appeal Ref: APP/X5990/F/16/3150904
24 Chilworth Street, London W2 6DT

- 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 Lovegrove Limited against a listed building enforcement notice issued by the City of Westminster Council.
 - The enforcement notice was issued on 19 April 2016.
 - The contravention of listed building control alleged in the notice is: an alteration to the listed building affecting its special interest as one of architectural and historic importance consisting of the installation of a burglar alarm box on the front elevation of the property between the third and fourth storeys of the building.
 - The requirements of the notice are:
 - (a) Remove the alarm box (illustrated in Photograph A and coloured yellow) which has been installed on the front elevation of the property between the third and fourth storeys of the building, and
 - (b) Make good any damage to the fabric of the building caused by the installation and/or removal of the alarm box.
 - The period for compliance with the requirements is one month.
 - The appeal is made on grounds (e), (h) and (j) 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 dismissed.

Background information and relevant policy

2. The appeal property was listed in Grade II in April 1975 and is located on the north-west side of Chilworth Street and lies within the Bayswater Conservation Area (BCA). The building comprises 6 storeys including a basement and a mansard roof extension. It forms one of a pair of mid C19 terraced houses built of brick with stucco dressings; two windows to upper level; one window to ground floor and rusticated quoins. There is a continuous balcony with cast iron railings and the basement area is also enclosed by cast iron railings. The building is still recognisable from its list description.

3. The yellow alarm box is located between the architraved/pedimented first floor window and the cill of the smaller second floor corniced window. It is fixed to the red brickwork and is roughly centred on the two white-framed windows. It only measures around 23cm x 30cm but it more or less fills the gap between the windows and at a height that is most noticeable from ground level.

4. In reaching my decision I have had special regard and paid special attention to sections 16(2) and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA). I have taken into account the most relevant development plan policies. These comprise policies DES1 (Principles of Urban Design and

Conservation); DES5 (Alterations and extensions); DES9 (Conservation areas) and DES10 (Listed buildings) and The City Plan Core Strategy Policy S25 (Heritage). The Council's Supplementary Planning Guidance on Satellite Dishes is a material consideration which I have taken into account.

5. The National Planning Policy Framework (NPPF) is also a major material consideration and the most relevant policies are set out in sections 7 (Requiring good design) and 12 (Conserving and enhancing the historic environment). Where relevant I have also taken into account Planning Practice Guidance and in particular the sections relating to 'Conserving and Enhancing the Historic Environment' and 'Design'.

6. I have noted the objections to the alarm box made by a neighbour at No 27 Chilworth Street. However, these objections are made on the basis that the alarm box is causing undue noise and disturbance due to the many times that it has 'gone off' or sounded both in the early hours of the morning and also during the day. Whilst acknowledging that 'noise and disturbance' is a material consideration in planning terms, the causing of noise and disturbance such as this would normally be dealt with by the Environmental Health section of the Council. It would be unreasonable to expect planning approval or listed building consent to be withheld purely in relation to the possibility of alarms going off accidentally.

7. In this case, therefore, although I have taken the representation into account it carries little, if any, weight in my deliberation of this appeal. In any case in response to this objection, on behalf of the appellant, it is indicated that the alarm is a 'silent alarm' which does not have a bell and only 'bleeps internally'. It could well be another alarm that is causing a nuisance. I now turn, therefore, to the grounds pleaded.

The appeal on ground (e)

8. The main issues are the effects that the Alarm Box (in this particular location) has had on the character of the listed building; on its setting; on its features of architectural and historic interest and on the character and appearance of the BCA.

Reasons

9. Having seen the alarm box from both near and distant viewpoints, I acknowledge that it is not a large box and that there is a general need to ensure that premises are protected by such installations as burglar alarms and CCTV cameras. It is also clear that crime prevention advice shows the installation of visual burglar alarms to be very high on its list of priorities for security measures to properties.

10. There can be no blanket ban of such installations and Local Planning Authorities across England and Wales acknowledge that this is the case. But clearly, in relation to our historic heritage (listed buildings and conservation areas), guidance on installations such as alarms, satellite dishes and gas meter cupboards is necessary to ensure that such assets are appropriately protected. In essence each such installation must be considered on its merits and this is how I have dealt with this particular alarm Box.

11. As already stated the box is not large. However, it is prominently sited at high level on the front of this fine listed building. Having seen its exact position between the first floor and the second floor windows I share the Council's concerns about its effect on the face of the listed building. Because it is centred on the windows and within a relatively small gap between the architraved/pedimented first floor window and the cill of the second floor window it is obtrusive and visually

distracting. Similar to a neighbouring alarm box it is in a dominant position between the windows and its colour emphasises its stark visual impact.

12. When seen against the brickwork gaps between first and second floor windows on either side, the alarm box detracts from the brickwork as well as from the architectural detailing around the two windows. Despite its small size I consider that it is harmful to the integrity and character of the listed building as well as being unacceptably jarring and harmful to the special architectural and historic features of the front elevation: namely the two windows and the brickwork. In turn the overall setting of the listed building is also detrimentally affected and it follows that the alarm box in this position neither preserves nor enhances the character or appearance of the BCA. .

13. I find, therefore that it is contrary to policies DES1 (Principles of Urban Design and Conservation); DES5 (Alterations and extensions); DES9 (Conservation areas) and DES10 (Listed buildings) and The City Plan Core Strategy Policy S25 (Heritage). I also find it contrary to policies within sections 7 and 12 of the NPPF which require good design and the conservation and enhancement of the historic environment. I consider that the harm is less than substantial but I do not consider that there are any appropriate public benefits which outweigh the harm caused. The Council would clearly not have granted consent for this particular installation and I find no justification in doing so at this appeal stage. The appeal fails on ground (e).

The appeal on ground (j)

14. An appeal on this basis is made on the basis that the steps required to be taken exceed what is necessary to alleviate the effect of the works executed to the building. The lesser step suggested on behalf of the appellant is to paint the box another colour (the colour of the brickwork). I agree that this would make it look less obtrusive but it is the actual position of the box as well as the colour, which, in my view, renders it unacceptably harmful. I do not consider that the requirements exceed what is necessary to alleviate the effect. The appeal also fails, therefore on ground (j).

The appeal on ground (h)

15. I accept that some form of security is essential and that it would be necessary to seek listed building consent for an alternative and less obtrusive location. In the circumstances, therefore, I agree that a 6 month period would be reasonable and appropriate. The appeal succeeds to this limited degree on ground (h) and the listed building enforcement notice will be varied.

Other Matters

16. I have taken into account all other matters raised on behalf of the Appellant Company. These include the initial grounds of appeal; the history of the premises; the need for security; the matters set out in the detailed statement and the final comments dated 18 August 2016. I also noted other obtrusive alarms in this part of the BCA. However, none of these factors carries sufficient weight to alter my conclusions on the grounds of appeal and nor is any other factor of such significance so as to alter my decision.

Formal Decision

17. The appeal is allowed to a limited degree on ground (h) only. I direct that the notice be varied by omitting the words '*ONE MONTH*' in part 6 of the notice (WHAT YOU ARE REQUIRED TO DO) and by substituting therefor the words '*SIX MONTHS*'.

18. 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 section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector