

Appeal Decision

Inquiry held on 13 December 2016

Site visits made on 13 & 16 December 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI

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

Decision date: 1 February 2017

Appeal Ref: APP/K5600/F/15/3140932

5-6 Queen's Gate Place, London SW7 5NU

- 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 Safmar Property Ventures UK Ltd against a listed building enforcement notice issued by The Council of The Royal Borough of Kensington & Chelsea.
 - The Council's reference is E/10/02362.
 - The notice was issued on 20 November 2015.
 - The contravention of listed building control alleged in the notice is set out in Annex A.
 - The requirements of the notice are set out in Annex B.
 - The period for compliance with the requirements is 6 calendar months.
 - The appeal is made on the grounds set out in section 39(1)(c),(e),(h),(i) & (j) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Procedural Matters

1. At the beginning of the inquiry the appellant argued that the enforcement notice was defective and requested a ruling. The ruling was given at the inquiry and is set out in Annex C to this decision.
2. The Council put forward a number of amendments to the enforcement notice, which in general were acceptable to the appellant. In relation to allegation 1, photographic evidence suggests that there were not doors in the basement recesses, but that some were boarded up. It was put by the Council that the reference to 'doors' should be deleted from the allegation and requirement.
3. Following receipt of further evidence, the Council has requested that allegation 2 and its associated requirement be deleted.
4. It was also suggested that where in some allegations replacement of the original features was not being requested, but reference made to features proposed in the previous consent, that these aspects should also be removed from the notice relating to allegations 9 – 16, on the basis that this could be considered as an improvement, rather than requiring replacement of what was originally in place.
5. During the course of the inquiry it was explained that the fireplace in allegation number 5 was not originally from within room 1.02, but from room 1.13. While the fireplace is not original, it dates back probably to around the 1930s, and is of historic interest and significance in relation to the changes to the building. The information used by the council in identifying room 1.02 came from the appellant. However, the subsequent evidence shows it to have come from 1.13.

6. In principle I consider that the notice could have been amended from room 1.02 to room 1.13 without any prejudice to the appellant. However, the previous permission and consent for the alterations to flats gave listed building consent for the fireplace to be removed from room 1.13, provided it was relocated within the building. There was no apparent location set for this. The fireplace is still within the building, not fixed, but in storage in the basement area. Given that the fireplace did not come from room 1.02, it would not be reasonable to require it to be relocated there. Similarly, as there has been consent to remove the fireplace from room 1.13, I do not consider that it would now be reasonable to require it to be put back there, as removal from room 1.13 is clearly acceptable.
7. It seems to me given the style of the fireplace that the designers could find a reasonable position within the building for the fireplace. However, I do not consider that within the terms of this notice the requirement as set out is reasonable and that requiring some other position for relocation would be against natural justice and unreasonable. I shall remove allegation 5 and its associated requirement from the notice.
8. The Council has reasonably based its enforcement action to a large part on the decision of the inspector in the previous appeal APP/K5600/E/13/2202753. However, it is noted that not all areas where harm was identified have been followed through into the enforcement notice. With listed building enforcement there is no limitation on the passage of time after which enforcement action can proceed, as is the case with section 174 appeals. Therefore, technically the council could pick off items in a piecemeal fashion over time. However, in cross-examination the council indicated that was not the intention, but it had used the previous inspector's decision to guide the appropriate enforcement action. I acknowledge this approach and consider that it would not be reasonable to come back to matters not now included in the allegation and requirements, that were identified in the previous appeal, as this could if the notice were upheld cause substantial and unreasonable disruption to the owners and would not be a reasonable approach.
9. Subsequent to the consideration of the enforcement notice the appellant confirmed that the grounds of appeal for all the allegations were now (e), (j) and (h).

Decision

10. The listed building enforcement notice is corrected by
 - (a) Allegation 1 delete 'doors' and add 'boarded up openings' and in the associated requirement delete 'timber doors' and add 'boarded up openings'.
 - (b) Delete Allegation 2 with the associated requirement.
 - (c) Delete Allegation 5 with the associated requirement.
 - (d) Requirement 9 delete 'and install plaster cornice CO10 shown on drawing 190 dated 29.06.07'.
 - (e) Requirement 10 delete 'and install timber skirting SK2 as shown on drawing 171 dated 29.06.07'.
 - (f) Requirement 11 delete 'and install timber skirting SK2 as shown on drawing 171 dated 29.06.07'.

- (g) Allegation 12 delete 'and fabric inserts' and in the requirement delete 'and fabric inserts' and 'and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07'.
 - (h) Requirement 13 delete 'and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07'.
 - (i) Requirement 14 delete 'and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07'.
 - (j) Requirement 15 delete 'and install timber skirting SK3 as shown on drawing 171 dated 29.06.07 and install plaster cornice CO13 as shown on drawing 190 dated 29.06.07'.
 - (k) Requirement 16 delete 'and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07'.
11. Subject to these corrections, the appeal is allowed insofar as it relates to allegations 3, 6 & 8 - 16 and listed building consent is granted for the works described in these allegations.
12. The listed building enforcement notice is varied by deleting requirements 3, 6 and 8 - 16.
13. The appeal is dismissed and the listed building enforcement notice is upheld as corrected and varied, insofar as it relates to allegations 1, 4 and 7 and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Reasons

Ground (e)

14. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special regard shall be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. Section 72(1) of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Case law established that the duties described should be given considerable importance and weight. It is common ground between the parties, and I concur, that the proposal would have no material effect on the character or appearance of the conservation area as a whole.
15. The relevant development plan document includes the Core Strategy (CS). CS Policy CL2 seeks to secure the highest architectural and design quality which respects the character and integrity of the building that contributes to local distinctiveness. In addition, CL Policy CL4 reflects the statutory duty set out above and identifies that the integrity, plan form and structure of the building, including the ground and first floor principal rooms, original staircases and such other areas of the building as may be identified as being of special interest, should be preserved. Further it identifies that the change of use of a listed building which would materially harm its character should be resisted. The policies and their objectives carry significant weight and are consistent with

- national policy within the National Planning Policy Framework (the Framework), which emphasises high quality design and protection for heritage assets.
16. 5 and 6 Queen's Gate Place are part of a listed terrace (Grade II) of houses within the Queen's Gate conservation area. The terrace was part of the development of the South Kensington area. The terrace was built in the mid 19th century as a row of impressive, elegant town houses, of some 5 floors with basement, typical of the architectural style of the time and of other neighbouring buildings. It is one of the large scale principal terraces which have generally remained unaltered externally. Most of the properties in the area would originally have been occupied by a single family with their staff. By the 1970s there were hardly any large houses still in single ownership, many either having been sub-divided for flats or converted for use by offices, embassies and hotels.
 17. The planned form of the estate has generally been maintained and the elegance and grandeur of the streets, terraces and the wider setting interspersed with green spaces, characterise the significance and architectural and historic interest of the area and external aspects of the buildings.
 18. The terrace was listed grade II in 1969. The listing only describes the external features of the terrace and does not distinguish between individual houses or make any mention of interior features or character. The list descriptions are essentially an aid to identification, but can help in identifying particular features. The fact the interior has not been referred to does not lessen its importance or the associated statutory duty to it.
 19. 5 and 6 Queen's Gate Place were originally built as two houses. No 5 is a prominent corner building with dual aspect onto Queen's Gate Place. Its location and dual aspect give it a little more stature than the other buildings.
 20. In 1935, 5 and 6 were converted to 11 flats across the floors of the two houses. There are copies of the plans showing the building conversion for the 11 flats. A lift was inserted, one main staircase was removed and the floors and many principal rooms subdivided. There is no way of knowing how much original internal fabric/features of the buildings were lost at this stage. However, it is inevitable that the considerable change would have resulted in significant alterations to the interior of the two houses, not least the loss of occupancy as two family homes and substantial plan form alterations. It was acknowledged that there are some original features that have been retained exposed in some of the rooms and in others retained behind new panelling.
 21. In 2007 planning permission/listed building consent was granted for the conversion of the building from 11 flats to 6 (PP/07/01770/MIND/LB/07/01771/CLBA (2007 permissions)). The principal staircase within the building was within No 5, with a single flight from the basement to the ground floor in No 6; the lift was centrally positioned within the building and there was a single link on each floor between the accommodation which comprised Nos 5 & 6 respectively. These elements of the building have persisted through into the layout of the appeal scheme. As a result, it is still obvious internally where the delineation is between 5 and 6 and this is an important feature of the architectural and historic interest of the heritage asset which has been maintained.

22. At the time the appellant company purchased the building, the 2007 scheme had been commenced, but not completed. The appellant accepts that they were badly advised at the time of purchase that the conversion to a single dwelling benefitted from listed building consent (previous appeal). On this misapprehension works of conversion continued. It was not until an advanced stage in the build that it became apparent that consent was required. However, the appellant company chose to complete the works of conversion as designs had been commissioned and contracts let.

The main issue is the effect of the works alleged on the significance and architectural and historic interest.

23. As conversion of the building from 11 flats to 6 flats was not completed, the more appropriate starting point for assessing the effect on the listed building is the time of listing, but taking account of the possible conversion and of the result of compliance with the requirements of the notice.
24. The previous appeal noted that the change of use for a single family home is closer to the original use of the building than any other residential division over the last 70 years. In general the appeal scheme has reinstated the floor plan of principal rooms to the size and proportions typical of the original arrangement and likely to reflect those of the original grand houses. This is a positive enhancement, reinstating part of the architectural and historic interest of the listed building and I concur with that conclusion.
25. It was argued by the appellant that the work should be considered to effectively be decoration of the building. I do not accept this argument. The fittings, tapestries and silk screening etc. have been designed for the building and specific locations. These together with the panelling and other features that have been installed are fixed to the building and have clearly all become part and parcel of its significance and architectural and historic interest. Technically it could be removed with listed building consent, but it would be a substantial operation. I consider the proposal in this light.
26. The internal fittings are an important aspect of the building's significance and architectural and historic interest, with I consider most weight being appropriate to any original fittings and lesser to replacement fittings. Any removal or covering up will affect the significance and architectural and historic interest of the building. However, I note that in the 2007 works consent was granted to remove some cornices and skirtings, including in most of the rooms on the lower ground floor. The previous inspector also noted that there was some loss of decorative features on the ground floor including cornice, skirting and a ceiling rose, but there is no allegation or requirement relating to these.
27. In terms of allegations 6 & 8 to 16 I acknowledge that there has been harm to the listed building by the insertion of these features and in some cases either the removal of original features or the covering up of the feature. This is 'less than substantial' harm in terms of the framework and needs to be weighed against public benefits. Where panelling has been inserted, photographs show that in some instances the previous features have been retained behind. Technically it would be possible to reverse some the work and in these cases the historic fabric has not been lost. That in itself does not justify the covering up, but mitigates the harm because some historic fabric is not lost and lessens the weight in this respect.

28. The Council complains of the relationship of the panelling that is set away from the wall and the original cornice at ceiling level. While I accept that the panel is away from the wall, the detailing of the junction has been carefully considered and does not appear out of place and this adds no further harm than that identified in terms of the introduction of the panelling itself.
29. It is also clear when the plan form of the original building is considered in relation to the works of conversion in the 1930s that there would have been substantial loss of original fittings, particularly where walls have been removed and new openings formed. I also take into consideration that where features have been lost the original fabric would be gone and any replacement features would be reproductions, albeit perhaps more representative of the original features than now constructed. I conclude that these works have harmed the significance and architectural and historic interest of the listed building.
30. Allegation 3 relates to the removal of the hearth in the entrance hall. There is no evidence to indicate what material the hearth would have been and that shown in the photograph might be York stone, but the photograph is not of good enough quality to identify the material or arrangement of the hearth and it equally could be slate or another material. It appears to be upstanding above the general floor level. Expert evidence suggests that when originally constructed fireplace hearths would have been level with the floor, much as the current arrangement. The hearth in the photograph is therefore more likely to be a later addition, perhaps made to stand above floor level to comply with building regulation requirements. While it is an important feature, given that it is likely to be a later addition, I attach less weight to it.
31. Removal of the hearth will have taken away some historic material and evidence of the revised arrangement and that is a loss to the significance and architectural and historic interest of the listed building. However, the current arrangement does provide some limited definition of the hearth location by use of the pattern of marble slabs. However, I do acknowledge that the definition is limited, and the floor on a general look appears to run into the fire opening. In answer to this the appellant notes that the floor design is an important feature of the overall interior of the building, particularly being the entrance hall and base of the staircase, which I concur with and give a little weight to this. Overall, the removal of the hearth has a small detrimental impact on the significance and architectural and historic interest of the listed building, which needs to be added to the overall balance.
32. As noted above, the materials and components within the building make an important contribution to the significance and architectural and historic interest of the listed building and their removal is harmful to the building as being one of architectural and historic interest. While the appellant wanted to have a new door (as identified in allegation 7), there is no good reason for this. The existing door has been retained in the basement and is in reasonable condition. The door can be decorated in the same way as the new door and would not have a harmful impact on the overall decorative scheme. I conclude that retention of the new door and removal of the old door is harmful to the significance and architectural and historic interest of the listed building.
33. The access to the vaults (as identified in allegation 1) is an important historic feature of the design of these buildings and loss of them not only affects the

evidence the building provides about its historic development, but also results in a long, bland wall of poor design. There is no evidence of the doors and on many of the older plans doors are not indicated, so I feel on the balance of probability there were either no doors or the boarding as identified by the appellant. The allegation is corrected accordingly to the appellant's evidence. While I note the boarding that was in the openings was not a good feature, overall, I conclude that to have the blank wall without evidence of the openings is more harmful to the significance and architectural and historic interest than to have the openings with the boarding. It is also open to the appellant to propose other arrangements for blocking up the openings, perhaps with recesses or false doors, but that is a matter for the council to consider following any application.

34. The arrangement of the CCTV equipment identified in allegation 4 is poor. It appears to have been purely inserted on a utilitarian basis, without consideration to appearance and has nothing of the quality of design consideration as the remainder of the building. Although minor, it causes considerable harm to the significance of the listed building and should be removed. The period for compliance would allow reasonable time for any alternative proposals to be put forward in the meantime.
35. The interior has been designed as a single coherent scheme by Nadine Interiors, who are ranked among the top five interior designers in Moscow. The scheme is a detailed interpretation of the 19th century French style and is of considerable artistic significance and quality. There is elaborate wood panelling, plaster moulding with considerable areas of gilding, together with hand made tapestries and murals specifically for the building, typical of the period, based on historical sources and made using traditional techniques. It is very rare to have an interior so consistently reproduced throughout the building. Top craftsmen from around the world have contributed to the works.
36. It was explained that when the buildings were built, purchasers could have had interiors decorated and arranged to their own requirements and this could have been highly decorative. I accept that this is the case, but to my mind it is unlikely that there would have been interiors of this quality and consistency throughout the building. However, clearly while many interiors would have been similar there was not a 'standard' interior. Even if that were the case, that 'standard' has been substantially diminished in the past because of the conversion to flats and subsequent alterations and loss of features prior to listing.
37. There is also some reduction in decorative treatment up through the building, but it is more subtle than would have originally been likely to be the case, particularly the upper floors are not now perceived as servant quarters. However, that now will remain the case as no enforcement action is being taken against the upper floor. I also note the standard section illustrating this build type shows the stair changing in character at third floor level, again suggesting the 'servant quarter' reduction in quality of the fixtures. However, while that may have been the case generally, in this building the high quality stair goes right up through the building and is a stunning feature and suggests a subtly different internal approach to the arrangement and hierarchy. This may be a result of part of the building being a corner location with two principal elevations. In terms of hierarchy the room heights still diminish from bottom to

top and windows reduce in size. The fact that on one floor the ceilings are a little lower has little impact on this.

38. Overall, I consider that opening the building throughout its height and reinstatement of many of the rooms is a substantial improvement to the hierarchy of the building in relation to the previous flat arrangements. I accept that the requirements of the notice do not force a return to the original flats and separation of the building horizontally. However, it would also result in some of the building having an exceptional interior of the French style and other parts being more consistent with the Victorian interior. To my mind that would be very inconsistent and not be in the best interests of the listed building and would overall be detrimental to its significance.

Planning Balance

39. The planning system is not 'punishment' based, but proposals are to be assessed on their impact and effect. There are procedures to address unlawful works to listed building through the courts when considered appropriate.
40. While I note that some historic features have been removed from the building during the works, it would appear that most of this occurred during the commenced conversion to flats prior to the appellant's ownership. When some features have been removed by the appellant, such as the fireplace and door, these were not discarded, but kept on site. Similarly, where features such as ceiling roses and cornices were not used in the finished scheme, some were not removed, but kept behind the panelling. However, even if the appellant was not responsible for removal of features, if it is deemed necessary for their return, the appellant as owner is now responsible for this and it would not be unreasonable.
41. A major factor in the significance of this building is its external design and detailing and the part that it plays in the group. The interior is important but the proportion of any effect should be considered in the light of the significance of the building as a whole. I have found that there has been harm caused to the significance of the listed building through allegations 3, 6 & 8 to 16 and I attach the great weight necessary in relation to listed buildings, but acknowledging that some of the harm is partially mitigated by retention of the historic fabric behind new work and that not all the features were original to the building.
42. The new work retains the most important aspects related to the hierarchy of the building in terms of room heights and window sizes and the impact on this in terms of the minor lowering of some ceilings is limited. The current design does have some diminution in hierarchy in terms of the design of its features up through the building, but this is more subtle than was in the original arrangement. However, given the stair arrangement, I am not convinced that this building necessarily followed the usual pattern of servants' quarters at upper level, so I do not consider this to be of great significance, particularly as the upper floor would remain unaltered and as currently designed.
43. In relation to the building at the time of listing, the benefit of opening up the building vertically with much of the rooms restored to their original plan form is substantial and the two buildings can be distinguished by the party wall which remains largely in place. Overall, the understanding and perception of the

hierarchy of the building has been greatly improved with the current scheme. In addition to this, the scheme provided is of the highest quality of design, detailing and construction and is a great asset to the listed building.

44. Overall, I conclude overwhelmingly that the negative aspects to the significance of the listed building are far outweighed by the positive aspects of what has been done and that the proposal enhances the significance and architectural and historic interest of the building. If there were any resulting harm it would clearly be outweighed by the public benefit of the interior now provided. The building's significance and architectural and historic interest would be harmed if the rooms as identified in the enforcement notice were required to be put back to their original form leaving much of the building as it is. It would be a very unfortunate compromise.
45. However, I also conclude that the arched door should be replaced, the basement openings reformed and the CCTV equipment removed, as these make no major contribution to the overall scheme and there is little justification for the works in terms of public benefits, so the appeal in relation to allegations 1, 4 & 7 fail on ground (e).
46. The previous appeal and decision by the inspector, which relates in part to the same work, is a material consideration in this appeal. I have come to a different conclusion to that appeal, which to some extent is based on improved information. In particular, the previous inspector had found on the evidence presented that the ceilings were lower than the window heads. This, if that was the case, would be of considerable importance. It would be very poor design to have the ceiling lower than the window heads and could have an effect when seen externally, and such an extent of lowering could have a great effect on the proportion of the rooms.
47. As it is, the evidence before me and ability to have a detailed inspection of the arrangement on site shows that the ceilings where lowered is not substantial and is nowhere near the height of the window heads in the rooms relevant to this appeal. The bottom edges of the cornices around the rooms do come down from the ceiling and the lower edges of these are close to window head height, but they are still about 35mm higher. This understanding of the ceiling situation is a significant material difference. Clearly if the ceilings did come down below the heads of the windows it would be likely to cause great harm.
48. The previous inspector placed significant weight on the hierarchy of the rooms, which when the original building was constructed was an important factor in the design. The hierarchy is expressed internally and externally, mainly through room and window heights, but also through the detailing of features such as cornices. To my mind, as the ceilings have not been affected in the way perceived by the previous inspector, the impact in relation to hierarchy is considerably less and overall I conclude that the impact on hierarchy is not substantial. So while I agree that a conversion might ideally reflect the original hierarchy of accommodation in the house, account should also be taken of the effect of the overall past changes on significance of the building at the time of listing and adverse effect that had on hierarchy.
49. The flat conversion in the 1930s and that proposed in the 2000s had a substantial effect on the hierarchy as perceived from within the building. The building was no longer used 'vertically' with principal rooms at the ground and

first floor levels and lesser uses above, but principal rooms in flats are at each floor level along with kitchen and bathrooms, so hierarchy of the use and rooms was detrimentally impacted. The building could not be perceived as a whole, but on a floor by floor basis. Currently you can see from within the rooms, with doors open, out into the stairwell and up and down, visually and physically uniting the building vertically. This to me is a major improvement in terms of the hierarchy from the time of listing or as proposed in 2000s.

50. The previous inspector was also considering the whole of the building. Parts of what has been done is not going to be enforced against by the council and now many rooms and their arrangement will remain, including some rooms where panelling has been inserted. To my mind the result of the enforcement notice could end up with a very inconsistent building, destroying what is clearly an homogenous design for the building as a whole and that also has considerable weight in the overall decision.
51. The proposal accords with CS Policy CL2, being of the highest architectural and design quality and generally respects the character and integrity of the building that contributes to local distinctiveness and CS Policy CL4, which reflects the statutory duty.

Ground (k) and Ground (h)

52. I have given listed building consent for most of the works associated with the allegation, leaving only a few matters to be completed under the enforcement notice. The only matters now outstanding in terms of the enforcement notice relate to the four openings in the basement, the arched door and CCTV equipment. These relate to important features of the listed building and it is reasonable in order to alleviate the harm they cause to the listed building that the steps identified are undertaken and the appeal under ground (k) fails.
53. In my view, the time allowed in the notice for these works to be completed is more than adequate and therefore the appeal under ground (h) fails.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Sasha White QC	Of Counsel, Landmark Chambers
He called	
Stephen Levrant IHBC	Heritage Architecture Ltd
RIBA FRSA AA	
Dr Chris Miele IHBC	Montagu Evans LLP
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FOR THE LOCAL PLANNING AUTHORITY:

Miss Claire Parry	Of Counsel, Cornerstone Barristers
She called	
Kate Orme BA Hons MSc	Senior Conservation and Design Officer, The
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Luke Perkins BSc Hons	Planning Officer, The Royal Borough of
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DOCUMENTS

Core Documents were provided prior to the inquiry on 5 CDs

Document	1	Appellant's appearances
	2	Statement of Common Ground
	3	Note of room numbers
	4	Explanation of the design process and photographs of interior
	5	Notice of appeal
	6	Appellant's opening
	7	Council's opening
	8	Bundle of cases
	9	Hare Humphreys' letter
	10	DP9 Errata sheet
	11	Coloured plans of original flat alterations
	12	Appellant's closing submissions
	13	Council's closing submissions

Annex A

Alleged Contravention

Without listed building consent:

Basement level

1. The removal and blocking up of four doors to the pavement vaults on the west side of the building as shown in photograph 1.

Ground floor level

2. The installation of cornice detailing parallel with the soffit of the stone treads of the main entrance stair as shown in photograph 2.1

3. The installation of a marble fireplace hearth in the main hall as shown in photographs 3a and 3b.

4. The installation of CCTV and associated equipment on the west elevation as shown in photograph 4.2.

First floor level

5. The removal of a timber fire surround and its cast iron insert shown in photographs 5a and 5b from the reception room shown on drawing 111A dated 08.08.07 which is room 1.02 shown on drawing 3596-MBS-1st dated 13.11.12.3

6. The installation of wall panelling as shown in photographs 6a and 6b in room 1.02 shown on drawing 3596-MBS-1st dated 13.11.12 over the original picture rail, dado rail and SK2 wall panelling shown on drawing 191 dated 29.6.07.4

7. The removal of an original arched door shown in photograph 7a which has been stored in the basement vaults and the installation of a replacement arched door shown in photograph 7b between rooms B2 and B3 as shown on drawing 111A dated 08.08.07 / rooms 1.09 and 1.12 shown on drawing 3596-MBS-1st dated 13.11.12 .5.

Second floor level

8. The installation of a plasterboard ceiling, cornicing, wall panelling and columns in room 2.01 as shown on drawing 3596-MBS-2nd dated 14.11.12 / the dining room and kitchen shown on drawing 112A dated 08.08.07 and shown in photographs 8a and 8b.6

9. The installation of a plasterboard ceiling which covers an existing ceiling and ceiling rose CR5 shown on drawing 191 dated 29.06.07 and the installation of a new cornice and wall panelling in room 2.02 as shown on drawing 3596-MBS- 2nd dated 14.11.12 / the reception room shown on drawing 112A dated 08.08.07.7.

10.The installation of plasterboard ceiling, cornicing, wall panelling and skirting in room 2.09 as shown on drawing 3596-MBS-2nd dated 14.11.12 / room B2 shown on drawing 112A dated 08.08.07.8

11.The installation of a plasterboard ceiling, new ceiling rose, cornice and wall panelling in room 2.12 as shown on drawing 3596-MBS-2nd dated 14.11.12 / room B1 shown on drawing 112A dated 08.08.07.9.

Third floor level

12.The installation of a plasterboard ceiling, cornice, wall mouldings and fabric inserts and skirting boards in room 3.01 as shown on drawing 3596-MBS-3rd / the dining room and kitchen as shown on drawing 113A dated 08.08.07 and as shown in photographs 12a and 12 b.10

13.The installation of a plasterboard ceiling, cornice, wall mouldings and fabric inserts and pilasters either side of the fireplace in room 3.02 as shown on drawing 3596-MBS-3rd / the reception room as shown on drawing 113A dated 08.08.07 and as shown in photographs 13a and 13b.11

14.The installation of a plasterboard ceiling, cornice, wall panelling and fixed cupboards in room 3.10 as shown on drawing 3596-MBS-3rd / the room B2 as shown on drawing 113A dated 08.08.07.12

15.The installation of a plasterboard ceiling, cornice, wall panelling and fixed cupboards in room 3.12 as shown on drawing 3596-MBS-3rd / the dressing room as shown on drawing 113A dated 08.08.07.13

16.The installation of a plasterboard ceiling, cornice, wall panelling and pilasters in room 3.15 as shown on drawing 3596-MBS-3rd / the room B1 as shown on drawing 113A dated 08.08.07 and as shown in photographs 16a and 16b.

Annex B

Steps Required to be taken

Basement level

1. Reinstall timber doors to the pavement vaults on the west side of the building in locations DE-02, DE-03, DE-04 and DE-05 as shown on drawing 109 dated 29.06.07 in the style of the vaults door shown on drawing 180 dated 29.06.07.

Ground floor level

2. Completely remove the cornice detail parallel with the soffit of the stone treads of the main entrance stair as shown in photograph 2.
3. Completely remove the marble hall fireplace hearth and replace with a York stone fireplace hearth to the same dimensions as that shown on drawing 110A dated 08.08.07.
4. Completely remove all external CCTV and associated equipment, fixtures and fittings shown in photograph 4 and make good the external elevations of the building.

First floor level

5. Repair, repaint and reinstall the timber fire surround currently stored in the basement vaults and shown in photographs 5a and 5b on the north wall of the reception room shown on drawing 111A dated 08.08.07 / room 1.02 shown on drawing 3596-MBS-1st dated 13.11.12 within a reformed opening on the north wall of this room along with the fire surround's cast iron insert.
6. Completely remove all surface level wall panelling (including any skirting integral to the wall panelling) shown in photographs 6a and 6b to reveal the original picture rail, dado rail and SK2 wall panelling underneath as shown on drawing 191 dated 29.06.07 and make good any damaged or missing parts of the original panelling, dado rail and picture rail using materials to match.
7. Remove the arched door shown in photograph 7b between rooms B2 and B3 shown on drawing 111A dated 08.08.07 / rooms 1.09 and 1.12 shown on drawing 3596-MBS-1st dated 13.11.12 and repair, repaint and reinstall the timber arched door which has been stored in the basement vaults and which is shown in photograph 7a and make good any damage.

Second floor level

8. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornicing, wall panelling (including any skirting integral to the wall panelling) and columns in room 2.01 as shown on drawing 3596-MBS-2nd dated 14.11.12 / the dining room and kitchen shown on drawing 112A dated 08.08.07 and shown in photographs 8a and 8b and install a lathe and plaster ceiling to abut the floor joints of the third floor above so that the ceiling and the cornice below it is above the soffit of the windows, install plaster cornice CO10 as shown on drawing 190 dated 29.06.07 and install timber skirting SK2 as shown on drawing 171 dated 29.06.07.
9. Carefully and completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornicing, and wall panelling (including

any skirting integral to the wall panelling) from room 2.02 as shown on drawing 3596-MBS-2nd dated 14.11.12 / the reception room shown on drawing 112A dated 08.08.07 to expose the ceiling and ceiling rose CR5 above as shown on drawing 191 dated 29.06.07 and make good any damaged or missing parts of the ceiling and ceiling rose using matching materials and install plaster cornice CO10 shown on drawing 190 dated 29.06.07 and install timber skirting SK2 shown on drawing 171 dated 29.06.07.

10. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornicing, wall panelling (including any skirting integral to the wall panelling) from room 2.09 as shown on drawing 3596-MBS-2nd dated 14.11.12 / room B2 shown on drawing 112A dated 08.08.07 and install a lathe and plaster ceiling to abut the floor joists of the third floor above so that the ceiling and the cornice below is above the soffit of the windows and install plaster cornice CO11 as shown on drawing 190 dated 29.06.07 and install timber skirting SK2 as shown on drawing 171 dated 29.06.07.

11. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), ceiling rose, cornice and all wall panelling (including any skirting integral to the wall panelling) from room 2.12 as shown on drawing 3596-MBS-2nd dated 14.11.12 / room B1 shown on drawing 112A dated 08.08.07 and install a lathe and plaster ceiling to abut the floor joists of the third floor above and so that the ceiling and the cornice below it is above the soffit of the windows and install plaster cornice CO11 as shown on drawing 190 dated 29.06.07 and install timber skirting SK2 as shown on drawing 171 dated 29.06.07.

Third floor level

12. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornice, wall mouldings and fabric inserts and skirting boards from room 3.01 as shown on drawing 3596-MBS-3rd / the dining room and kitchen as shown on drawing 113A dated 08.08.07 and shown in photographs 12 a and 12b and install a lathe and plaster ceiling to abut the floor joints of the fourth floor above and so that the ceiling and the cornice below it is above the soffit of the windows, and install plaster cornice CO12 as shown on drawing 190 dated 29.06.07 and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07.

13. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornice, skirting boards, wall mouldings and fabric inserts and the pilasters either side of the fireplace from room 3.02 as shown on drawing 3596-MBS-3rd / the reception room as shown on drawing 113A dated 08.08.07 and shown in photographs 13a and 13b and install a lathe and plaster ceiling to abut the floor joists of the fourth floor above and so that the ceiling and the cornice below it is above the soffit of the windows and install plaster cornice CO12 as shown on drawing 190 dated 29.06.07 and install timber skirting board SK3 as shown on drawing 171 dated 29.06.07.

14. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornice, wall panelling, skirting boards and fixed cupboards from room 3.10 as shown on drawing 3596-MBS-3rd / the room B2 as shown on drawing 113A dated 08.08.07 and install a lathe and plaster ceiling to abut the floor joists of the fourth floor above and so that the ceiling and the cornice below it is above the soffit of the windows and install timber skirting SK3 as shown on drawing 171 dated 29.06.07 and install plaster cornice CO13 as shown on

drawing 190 dated 29.06.07.

15. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornice, wall panelling, skirting boards and fixed cupboards from room 3.12 as shown on drawing 3596-MBS-3rd / the dressing room as shown on drawing 113A dated 08.08.07 and reinstate a lathe and plaster ceiling to abut the floor joists of the fourth floor above and so that the ceiling and cornice below it is above the soffit of the windows and install timber skirting SK3 as shown on drawing 171 dated 29.06.07 and install plaster cornice CO13 as shown on drawing 190 dated 29.06.07.

16. Completely remove the plasterboard ceiling (including any recessed lighting or sound speakers), cornice, all wall panelling (including any skirting integral to the wall panelling) and pilasters from room 3.15 as shown on drawing 3596-MBS-3rd / room B1 as shown on drawing 113A dated 08.08.07 and shown in photographs 16a and 16b and reinstate a lathe and plaster ceiling to abut the floor joists of the fourth floor above and so that the ceiling and the cornice below it is above the soffit of the windows and install plaster cornice CO13 as shown on drawing 190 dated 29.06.07 and install timber skirting SK3 as shown on drawing 171 dated 29.06.07.

Annex C - Ruling

54. The notice clearly sets out the allegations, requirements and time period as required by Section 38(2). I acknowledge that there is some question over the requirements in terms of what may have been present in the building at the time of listing, such as in relation to the basement arches, or whether the architectural and historic interest of the listed building has been affected, but that is a matter for the evidence and subsequent amendment of that allegation/requirement if found to be necessary. If the allegation is incorrect then that is for a ground (b) challenge, which the council is content to be added.
55. It is common ground that the (a), (b), & (c) aspects of Section 38 cannot be mixed in one requirement. However, I do not accept that an enforcement notice has to state within it which category each requirement comes under in terms of Section 38(2) (a), (b) or (c). I acknowledge that an appellant should be able to interpret from within the enforcement notice the section (a), (b) or (c) to which the requirement relates to enable the appropriate argument to be put at appeal. In my view, the notice does reasonably allow this. In particular, it clearly notes on the first page 'take the steps specified in schedule 3 to alleviate the effect of the works which were carried out without listed building consent'.
56. I acknowledge the argument that there is some reference to 'restoration' in the council's evidence, but that would be a mistake in the evidence; the formal notice would not be affected or changed by the later evidence produced by the officer.
57. The appellant puts an argument that there is no evidence to explain why the alterations are acceptable in part of the building and not elsewhere. The Council has given reasons such as the hierarchy of the building and the ceiling being lower than the window heads. That is a matter to come out in the evidence and what has been accepted in relation to what is required will clearly be a material consideration.
58. The appellant argues that some of the requirements appear to relate to all three purposes for imposing the requirement. I do not accept that referring to a previous consent means that the intention is for that requirement to bring the building back to the state it would have been if that consent had been complied with. The notice is quite clear that it is referring to the drawings of the previous application for purposes of identification and to identify detailing that would in the authority's consideration be appropriate to alleviate the harm that has been caused to the listed building.
59. I acknowledge, as identified by the Council in the proposed amendments, that the requirements may be seeking improvement to the building. This is particularly so in requiring proposed skirtings from a previous permitted application to be copied. While I acknowledge that without evidence this would be a reasonable replacement, that may well be improvement and therefore should be removed from the requirements. However, this would not cause unacceptable prejudice to the appellant.
60. I conclude that the enforcement notice is lawful and there is no need to amend it in terms of Section 38(2) (a), (b) or (c).

