
Appeal Decision

Site visit made on 20 March 2017

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 30 March 2017

Appeal Ref: APP/X5210/F/16/3154628

4 Chamberlain Street, London NW1 8XB

- 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 Jonathan Bucknell against a listed building enforcement notice (LBEN) issued by the London Borough of Camden (the LPA).
 - The notice, numbered EN16/0450 was issued on 7 June 2016.
 - The contravention of listed building control alleged in the notice is: within the rear ground floor room, removal of original lathe and plaster to large areas of the walls and to the entirety of the ceiling; partial removal of decorative cornice.
 - The requirements of the notice are as follows:
 - 1) Completely repair and reinstate the original plaster wall, ceiling and decorative corncicing to match the original as shown in photo IMG4833: or
 - 2) Restore and reinstate the plaster wall and ceiling treatment and decorative cornices in accordance with the approved drawing 7857 106D.
 - The period for compliance with the requirements is six (6) months.
 - The appeal is made on ground (g) only 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.

Matters of clarification and background information

2. The appeal is made on ground (g) only and, because ground (e) is not pleaded, the merits of the case do not fall to be considered.
 3. The appeal building was listed in Grade II on 11 January 1999, as part of the grouping of Nos 1 -8 Chamberlain Street all of which are located within the Primrose Hill Conservation Area (PHCA). The list description refers to the properties as being symmetrical and dating back to the mid C19, with yellow stock brick, blue brick bands and stucco dressings, slated roofs and with overhanging bracketed eaves. The dwellings are still noticeably recognisable from their list description and still form a '*very complete group*'. At the time of listing the interiors were not inspected.
 4. In 2014 an Environmental Health Improvement Notice (EHIN) was issued on the ground floor and basement property of the building. This required various works to be carried out including works to improve the gas pipework, the installation of a central heating system, the overhaul and secondary glazing of the windows, insulation of the bathroom, installation of a double-glazed door, insulation of the basement ceiling, installation of a new kitchen and bathroom, installation of fire and smoke protection equipment and the fitting of railings to the front area steps and the rear light well.
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5. Works commenced without the necessary Listed Building Consent, including the works to the plasterwork in the ground floor rear room which are now the subject of this appeal. The works ceased and following discussions with the LPA officers Planning and Listed Building applications were submitted (2015/4896/P and 2015/5813/L).

The appeal on ground (g)

6. To be successful on this ground of appeal it must be conclusively shown that that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. Clearly, the situation prior to any works commencing was that the historic plastering to walls, ceilings and cornices was still in-situ. The requirements are such that, if carried out as indicated in the LBEN, the condition of the room and, therefore, the building would be restored to its previous condition. It follows that the requirements as set out do not exceed what is necessary for restoring the building to its previous condition.

7. The arguments put forward on behalf of the Appellant are made on the basis that the requirements would not satisfy the Building Regulations and, in particular, that the necessary fire separation and noise attenuation measures between the ground floor and first floor properties would not be achieved by the requirements. In essence, this is more of an appeal under ground (j). When this ground is pleaded it is on the basis that the steps required exceed what is necessary to alleviate the effect of the works executed to the building. I have therefore also considered the appeal as if made under ground (j).

8. From all of the representations, I can understand the stance taken on behalf of the Appellant and it may well be that the alternative solution put forward could be acceptable in terms of the overall effect on the listed building. However, the arguments put forward are made on the basis of an alternative proposal to that which was granted planning permission and listed building consent by the LPA. The fact that a ground (e) appeal has not been made in this instance means that I cannot consider any alternative listed building consent for what might or might not be acceptable. As indicated above the merits of the case are not before me and at this stage I do not consider that the steps required exceed what is necessary to alleviate the works carried out and as enforced against. The appeal cannot succeed therefore under ground (j).

9. I can only conclude therefore, that the appeal must fail on grounds (g) and (j). If the Appellant wishes to pursue a course of action which differs to the alternative requirements set out in the notice, then it is a matter between him and the LPA. For me to approve or agree with the Appellant's proposal set out in the grounds of appeal would, in my view, cause injustice to the Council. The compliance period of 6 months should give adequate time in my view for the Appellant to liaise with the Council on any alternative proposals.

Other Matters

10. In reaching my decision I have taken into account all of the other matters raised by both the Appellant and the Council. However none of these carries sufficient weight to alter my conclusions and my decision that the appeal should be dismissed.

Anthony J Wharton

Inspector