



Appeal Decision

Site visit made on 8 October 2019

by Anthony J Wharton BArch RIBA RIASI

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

Decision date: 17 October 2019

Appeal Ref: APP/K5600/F/18/3213922

5 Onslow Gardens, London SW7 3LY

- 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 Mrs Oana Crisan (Brunswick Holdings Limited) against a listed building enforcement notice (LBEN) issued by the Royal Borough of Kensington & Chelsea.
 - The enforcement notice, numbered E17/00981, was issued on 3 September 2018.
 - The contravention of listed building control alleged in the notice is: the installation of three CCTV cameras to front elevation, two at first floor level and one at ground floor level.
 - The requirements of the notice are as follows:
 - (i) Removal of 3 CCTV cameras from front elevation at first and ground floor levels.
 - (ii) Infill and restore decorative stucco to original condition.
 - The period for compliance with the requirements is two months.
 - The appeal is made on ground (e) only as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (PLBCAA).
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Decision

1. The appeal is dismissed. See formal decision below.

Background information and relevant policy

2. The four storey, plus basement, appeal building is located on the eastern part of Onslow Gardens, close to the junction with Onslow square. It is a mid-nineteenth century terraced property which was listed in Grade II on 15 April 1969, as part of a group numbered 1-8 Onslow Gardens. It lies within the Thurloe Estate and Smith's Charity Conservation Area (TESCCA). The significance of this heritage asset lies in its Italianate architectural design, with its rusticated channelled ground floor; its Doric portico and a 'bottle' balustrade at first floor level. It clearly contributes positively to the setting of the listed terrace, as well as to the character and appearance of this part of the TESCCA.
3. Following the installation of the 3 CCTV cameras a retrospective listed building consent (LBC) application was made for their retention. This was refused by the Council on 19 July 2018. The Council's reasons for refusal related to the CCTV cameras obscuring and disrupting the decorative stucco work making them less clearly defined, to their incongruous modern design and to the visual clutter which they added to the front elevation. The ground floor CCTV camera is positioned immediately below one of the stone balcony brackets and the other two are positioned at first floor level across one of the joints to the quoined stucco works, which define a setback in the elevation between the brickwork faces.
4. The most relevant planning policies are Policy CL4 (Heritage Assets, Listed Buildings, Ancient Monuments and Archaeology) of the Consolidated Local Plan (CLP) and Policy 7.8 (Heritage Assets and Archaeology) of the London Plan (LP).

The National Planning Policy Framework (NPPF) is a major material consideration and section 16, entitled '*Conserving and enhancing the historic environment*', is relevant. The Council has referred to section 12 of an earlier version of the NPPF which was fundamentally the same as the latest February 2019. Because the building is listed in Grade II and within the TESCCA, I have had special regard and paid special attention to sections 16(2) and 72 of the PLBCAA.

5. During my site visit, as well as noting the appeal cameras, I walked around this part of the TESCAA and saw other numerous entry phone systems and other CCTV cameras on other properties. In fact I saw most of those listed in the documents submitted on behalf of the appellant. I have noted the comments that the LPA do not appear to have enforced against other installations. However, I have not been provided with any information regarding any other applications or enforcement action and have, in any case, dealt with this case on its merits.

The appeal on ground (e)

6. The main issues are the effects of the CCTV cameras on the character and integrity of the listed building; on its setting and on its features of special architectural and historic interest.

7. Having seen the three CCTV cameras from both near and distant viewpoints I acknowledge that they are relatively small components and, in relation to some other installations, are actually smaller. However, despite their small size, I consider that they do impact negatively on the character and appearance of the listed building.

8. Taking first of all the two cameras at first floor level, I agree with the Council that these obstruct and obscure the decorative stucco detailing. Instead of being positioned discretely, they are located most obtrusively across one of the quoin stucco joints. When seen in conjunction with the excessive white cabling, which untidily snakes up the wall between brickwork and stucco, I consider that they have been insensitively positioned and detract markedly from the character and integrity of the listed building.

9. In turn this has had a detrimental effect on the overall setting of this front elevation, as well as harming one of the special architectural and historic features: namely the stucco quoins. I do not consider that LBC should be granted for the retention of these two CCTV cameras.

10. When attaching necessary components such as fire alarm boxes, cabling, cameras and intercom systems to the prominent elevations of listed buildings, some degree of thought is required to ensure an overall design effect that is either complementary or at least neutral in terms of its visual impact on the building, its setting and its architectural features. Unfortunately in this case the two CCTV cameras look as though they have been hurriedly fixed without any due design consideration relating to the visual impact on the building.

11. I acknowledge that one needs to see such components, since their function is to ensure security and to make clear that the property is being protected. However, it is equally important to ensure that such works are not obtrusive or alien in appearance, whereby they detract markedly from the building and its architectural qualities. In this case, in my view, that careful balancing of need/security with resulting visual impact has not been met.

12. Turning to the single ground floor CCTV camera, which is fixed underneath the balcony bracket, I also find this to be obtrusive and inappropriate. Again, whilst accepting that it is relatively small, I consider that it is perceived as some sort of

modern alien gargoyle or overflow pipe protruding from the bottom of the stone bracket. I consider it to be another insensitive and ill-chosen position for a camera and that it detracts markedly from this fine architectural feature of the building. I do not consider that LBC ought to be granted for its retention.

Other Matters

13. I have taken into account the final submissions made on behalf of the appellant. In particular I have noted the comments relating to crime and consistency in decision-making and the findings in the cases of *North Wiltshire District Council v SSE* 91993) 65P&CR 137 and *Baroness Cumberledge v SSCLG* [2017]EWHC 2057. I accept that previous decisions are capable of being material and that it is important that '*like cases need to be decided in like manner*' where appropriate. However, the courts have also accepted that each case must be assessed on its merits and this is how I have dealt with this appeal. As indicated above I have not been supplied with any information of other applications or other instances of the LPA taking LBEN action.

14. I acknowledge the need for security and I have noted all of the nearby incidents of crime which are set out in the statement submitted on behalf of the appellant. There is clearly a need for CCTV and Burglar Alarm security in the locality. The NPPF is also quite clear that there is a need for developments to create places that are safe, inclusive and accessible and which promote health and wellbeing. There is also a need to provide a high standard of amenity for existing and future occupiers and where crime and disorder and fear of crime do not undermine the quality of life or community cohesion and resilience.

15. At the same time, however, the NPPF is also quite clear about the need to achieve well designed places and the need to conserve and enhance the historic environment. The NPPF indicates that poor design, which must include works to listed buildings, should be resisted. In this case the security, health and fear of crime related needs are acknowledged as being part of the balanced consideration relating to the retention of the cameras. However, these considerations are far outweighed by the fact that insufficient attention, in my view, has been given to the positioning of the CCTV cameras. This has resulted in harm being caused to the listed building.

16. In reaching my conclusions I have taken into account all of the other submissions. These include the initial appeal documents; the detailed statements; relevant policies; the details of 'nearby incidents of crime'; all of the other CCTV and entry systems installations in this part of the TESCAA; the photographic evidence and all of the other matters covered in the final submissions. However, none of these carries sufficient weight to alter my conclusion that LBC should not be granted for the retention of these three particular CCTV cameras. Nor is any other factor of such significance so as to change my decision that the appeal should be dismissed.

Formal Decision

17. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the works carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Anthony J Wharton

Inspector