



Appeal Decision

Site visit made on 27 October 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/M4510/F/19/3231790

Logobear, 74 Clayton Street, Newcastle upon Tyne NE1 5PG

- 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 Phil Rigby against a listed building enforcement notice issued by Newcastle-upon-Tyne City Council.
 - The listed building enforcement notice is dated 21 May 2019.
 - The contravention of listed building control alleged in the notice is without listed building consent, the painting of the shop front and the fixing of fascia and sub-fascia signs relating to 'Logo Bear' to the ground floor front elevation of the building.
 - The requirements of the notice are: 1. Remove the fascia sign attached directly to the building. 2. Remove the sub-fascia sign attached directly to the building. 3. Repair any underlying damage to the woodwork following compliance with requirements 1 and 2 by filling holes with wood filler and sanding to remove the excess. 4. Following compliance with requirement 3 above, repaint the shop front (with the exception of that part of the shop front already painted in maroon) in Torshield Smooth Grainger Town Stone reference CR506LF.
 - The period for compliance with the requirements is four months.
 - The appeal is made on the grounds set out in section 39(1)(c) and (k) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal site

2. The appeal site comprises the ground floor shop premises which forms part of the grade II listed building at 74 Clayton Street. The building was first listed in 1971 as part of the group of buildings comprising the terrace numbered 36 to 92 (even numbers), which is a fine example of Victorian town architecture. Originally comprising shops and houses, the terrace dates from around 1837, and is attributed to John Wardle for Richard Grainger.
3. The four-storey terrace has a sandstone ashlar frontage with 20th century shop fronts on the ground floor. The first floor contains the tallest windows in the facade, with successively smaller windows at second floor and top storey levels. There is a heavy cornice above the second floors windows, visually separating the top floor from the levels below. The architectural treatment is austere, with little by way of decoration or articulation of the frontage, and is typical of the remainder of the listed terrace. These factors make a positive contribution to the significance of the listed building.

The appeal on ground (c)

4. The appeal on ground (c) is that those matters alleged do not constitute a contravention. To succeed on this ground of appeal, it must successfully be argued that the unauthorised works carried out have not altered the character of the listed building. Alternatively, it must be shown that listed building consent is in place for the works. Under ground (c), the merits of the works are not considered. The question relates solely to whether or not the character of a listed building has been changed by the works. This is irrespective of whether or not such works are considered to have been harmful or not to the building.
5. The appellant takes a two-fold approach, arguing firstly that consent was granted for the works in 1993.
6. The Council have provided a number of documents from 1993 relating to the appeal site. Listed building consent (ref: LBC/01/0854/93) for the erection of one illuminated fascia sign was granted on 20 August 1993. It is difficult to make out the text of the decision notice, but Condition 3 seems to require the paint used for the lighting trough to match that for the proposed fascia panel. On 1 October 1993, advertisement consent (ref: ADV/01/1126/93) was granted for the display of a trough lit fascia sign. Condition 1 causes the advertisement consent to expire at the end of five years from the date of the decision.
7. From the evidence before me, there is nothing to show that the 1993 scheme was implemented, and as a result, I cannot be certain that the listed building consent remains extant. I note also that the advertisement consent lapsed in 1998, and there is no evidence that it was ever renewed. These matters alone indicate that the appellant cannot rely on the 1993 consents.
8. There are no drawings of the fascia sign and trough panel that were allowed in 1993. Listed building consent applications generally require detailed plans relating to proposals that must be adhered to exactly when implemented. Therefore, even if the 1993 listed building consent was still extant, there is no way to be certain from the submissions that the unauthorised sign exactly replicates the detailed design or colour or any other aspect of the consented signage. In any event, it would not confer consent for the sub-fascia sign or the painting of the shopfront. Essentially, the appellant appears to treat the 1993 consents as some form of 'in principle' permission to put up signage at the appeal site, but this is not a tenable approach.
9. I am not, therefore, satisfied that there is sufficient evidence to show that listed building consent exists for the works.
10. The appellant goes on to argue that the works do not constitute an alteration that affects the character or appearance of the listed building. He asserts that the new signage is similar to the previous signage at the property, and that the works amount to redecoration, which is not normally considered to affect the character of a listed building.
11. In this context, the building as a whole should be considered. No 74 is formal and restrained in its appearance, presenting a robust public façade. Part of its significance lies in its contribution to the uniformity of the terrace as a whole.

It was designed to blend in as part of fine architectural set piece within the street scene.

12. The new signs, by reasons of their busy modern lettering and graphics, spread across two levels, result in a scheme that is prominent to passers-by, drawing attention away from the architectural balance and composition of the frontage as a whole. The works are not in keeping with the restrained, sober appearance of the listed building, and therefore detract from its significance. The new signage clearly amounts to a rebranding of the premises using corporate colours and logos that have not previously existed at the site. On that basis, the scheme cannot be considered a like for like substitution of previous signage.
13. In addition, the window surrounds and roller boxes have been painted maroon, and the side columns and stone surround to the fascia have been painted an off white colour. Where paint has been applied directly to historic stonework, it has departed from the characteristic appearance and colour of the natural material, thus fundamentally changing its appearance.
14. In these circumstances I conclude that the works are a breach of control because they materially affect the special architectural and historic interest of the listed building, and there is no consent already granted for the works. Consequently, the appeal on ground (c) fails.

The appeal on ground (k)

15. The appeal on ground (k) is that the steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.
16. As may be seen from my comments above, the appellant has not established that listed building consent has been granted for the new works, or that the new works accord with the 1993 consent. In any case, I cannot be certain of the state the building would have been in if the terms of the 1993 consent had been complied with, due to the lack of supporting plans. An appeal on ground (k) must therefore fail.
17. The enforcement notice does not specify which part of section 38 of the Act it was issued under. However, the wording of the requirements points to section 38(2)(b), which seeks alleviation of the effect of the works. The submissions made by the appellant under ground (k) correspond to a ground (j) appeal, which is that the steps required by the notice exceed what is necessary to alleviate the effect of the works executed to the building, and which can be pleaded in respect of a notice issued under s.38(2)(b). As ground (k) is unavailable to the appellant, I am satisfied that ground (j) can be considered without injustice.
18. Steps 1-3 require the removal of the fascia and sub-fascia signs and the making good of the surface to which they are fixed. If, as the appellant contends, no fixings have been made, then Step 3 would be superfluous in any case. However, as they stand, the steps are commensurate with the purpose of the notice.
19. Step 4 allows the maroon paintwork to remain but requires the remainder of the shop front to be repainted in Torshield Smooth Grainger Town Stone

reference CR506LF. In view of the physical difficulties of restoring painted stonework to its unpainted state, and the prevalence of such a finish in the rest of the terrace, I am satisfied that this step is appropriate to alleviate the unauthorised painting of the shop surround.

20. The appeal on ground (i) therefore fails.

Other Matters

21. Whilst I agree with the appellant that keeping a building in use is key to its conservation, there is no evidence to suggest that the continued use of the appeal site depends on this particular signage scheme. This matter has therefore not led me to a different conclusion in my consideration of the appeal.

Conclusion

22. For the reasons above, I conclude that the appeal should be dismissed, and the listed building enforcement notice upheld.

Elaine Gray

INSPECTOR