
Appeal Decision

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 16th June 2022

Appeal Ref: APP/A5840/F/21/3267337

The building situated at 2 Queens Road, London, SE15 2PT

- 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 Menelaus Joaquin Raido Louca against a listed building enforcement notice issued by the Council of the London Borough of Southwark.
 - The enforcement notice was issued on 10 December 2020.
 - The contravention of listed building control alleged in the notice is as detailed in Schedule 1 below.
 - The requirements of the notice are 1. Commence and complete the works granted by Listed Building Consent, Reference 19/AP/2124 and in accordance with details granted in Approval of Detail Consents, references 19/AP/2777 and 20/AP/2790. 2. Remove all debris from the site resulting from compliance with Step 1.
 - The period for compliance with the requirements is Twelve (12) months.
 - The appeal is made on the grounds set out in section 39(1)(h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

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

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appellant submits in final comments that the site description in the Council's statement is misleading as this refers to the car parking area, which benefits from planning permission for residential development¹, and that the Residential Scheme is not tied to completion of the listed building works. The red line on the notice is drawn around the hotel building and car parking area. The appellant has not indicated that the Residential Scheme has been implemented and accordingly, the red line is correctly drawn around the existing listed building curtilage and planning unit.

The appeal on ground (h)

4. The appeal on this ground is that the period for compliance (12 months) falls short of what should reasonably be allowed. The appellant's representations did not explicitly state a proposed period for compliance. However, a Gantt

¹ Ref: 19/AP/2204 (the Residential Scheme)

chart was submitted with an end date for the works of 27 March 2025, and the appellant has confirmed this as the proposed period. Thus, the compliance period requested is effectively some 2 years and 10 months.

5. Essentially, the basis for the appellant's appeal on this ground relates to the costs of funding the works required, along with the lost income from disruption that would be faced by the hotel business whilst works are undertaken. The appellant cites financial hardship stemming from the COVID-19 pandemic, including the need to secure staff employment over this period, along with difficulties in finding contractors with appropriate expertise and availability to carry out the specialist works stipulated.
6. The appellant puts forward in evidence projected cash flow for the period June 2021 to 31 August 2025, but very little detail is given as to how projections have been calculated. A letter from the appellant's accountant confirms debt levels faced by the business, along with monthly fixed operating costs. No detailed breakdown is though given for the latter. I acknowledge though that whilst historic official copy entries might not have shown an outstanding mortgage, there are outstanding loans to the business which are required to be serviced, together with personal debt.
7. A document setting out costings for the works is not supported by contractor quotes, thus it is unclear as to the provenance of these figures, or whether multiple quotes have been obtained to seek best value. I accept though in principle that the works required necessitate specialist expertise with associated high costs. No detailed information is given either to illustrate how anticipated lost revenue from disruption has been estimated. I note apparent difficulties related to contractors' backlogs of work, but I do not have evidence indicating the extent of such backlogs.
8. No doubt the consequences of the pandemic have significantly impeded the cash flow of the business and I note the debt levels faced. I am very conscious also that some of the works stipulated would result in significant disruption to the hotel business operations, with a consequent loss in revenue. I greatly sympathise with the appellant's difficult position in these respects.
9. However, the financial evidence put forward is not in my view sufficiently detailed to justify why the appellant would need more than 12 months to enable funding of, and to carry out, the required works. The appellant makes reference to the apparent impossibility of obtaining a loan from a financial institution, but no substantive evidence is put forward which suggests that this option has been explored in any detail.
10. I understand that the appellant hoped that the Residential Scheme would be used to subsidise the listed building works, and that the 12 month compliance period would not facilitate this. However, on the evidence before me, I cannot be satisfied as to what funding options have been properly explored. It is not clear whether it is the appellant's preferred option in financial terms to extend the works beyond the 12 month compliance period, or whether there is no realistic alternative in reality. The Council's suggestion, for example, that the residential development site within the red line be sold to fund the works has not received a satisfactory substantive response.
11. The appellant has emphasised his efforts in keeping in contact with the Council, long running discussions around the compliance period, his seeking to be

proactive in pushing forward the restoration works even during the difficulties of the pandemic, along with his commitment to maintaining the heritage aspects of the building. I also have the greatest sympathy for the appellant in respect of personal difficulties which have been dealt with, and am mindful of the financial obligations that the appellant has to take care of his family.

12. I acknowledge that in the Carlton Tavern appeal², the Inspector took account of the appellant's representations as to how long the works required would take. I do not have detailed information as to what representations were made in that case, but I have identified above the limitations of the evidence submitted here. I do not consider the Carlton Tavern compliance period to be an appropriate example as to what would represent a reasonable time period in this case since the works in that case were considerably more extensive than those required here.
13. Drawing all of these matters together, I find that the appellant has not demonstrated on the evidence before me as to why financial or practical reasons would in reality render the 12 month compliance period to be unreasonable. Taking into account the public interest in seeing the listed building restored, I find that the 12 month compliance period strikes the right balance and does not fall short of what should reasonably be allowed in this case. There is nothing therefore to suggest that the enforcement notice is punitive, rather than remedial and no basis to find that it should be quashed.
14. The appeal on this ground fails for the reasons stated.

Conclusion

15. Concerns as to the Council's handling of the enforcement process are not for me in dealing with this appeal and for the reasons given above, I conclude that the appeal should fail.

V Bond

INSPECTOR

² APP/X5990/C/15/3130605

Schedule 1

Contravention of listed building control alleged in the notice

Without listed building consent the alteration of the Building set out in the Heritage Statement of Listed Building Application, London Borough of Southwark Reference 19/AP/2124 as follows:

Basement Level:

1. Staircase to the ground floor was removed;
2. Alterations to the floor plan not in accordance with the 1999 approval.

Ground Floor Level:

3. The lay-grid ceiling has been replaced with a suspended plasterboard ceiling and the original lathe and plaster ceiling and cornicing details are in a poor state of repair;
4. En-suite bathrooms were added to rooms 2, 3, 4 and 5;
5. Wardrobe nibs were added to rooms 2, 4 and 5.
6. Internal doors were replaced with inappropriate contemporary doors.

First Floor Level:

7. En-suite bathrooms were introduced to rooms 12, 13, 15, 17, 18 and 19.

Second Floor Level:

8. An En-suite bathroom was inserted.

Exterior:

9. Front elevation lower ground floor timber sash window reveals, with reveals widened and were widened and new inappropriate casements installed;
10. access to basement reconfigured to allow entry through the east bay rather than west via new stair to ground floor level with new stair rails and inappropriate tiles applied to the steps and walls;
11. front limestone steps were clad with tiles and new inappropriate modern railing installed.