

Committee	PLANNING COMMITTEE (A)	Item No. 11
Report Title	5 ABERDEEN TERRACE SE3 0QX	
Ward	Blackheath	
Contributors	Regina Jaszinski	
Class	PART 1	Date: 11 NOVEMBER 2010

### **Unauthorised works to a Listed Building**

The painting of the stucco detailing and render at the front, side and rear elevation and the painting of the terracotta elements of the front elevation without listed building consent

#### **Site Owner/Agent**

Mr S Frost  
Greenwich Properties Investment Ltd  
Brigade Works  
Brigade Street  
London SE3 OTW

#### **Background Papers**

- (1) Case Files - LE/448/A/TP
- (2) Adopted Unitary Development Plan (July 2004)
- (3) The London Plan (2004)
- (4) Local Development Framework
- (5) PPG 18: Enforcing Planning Control
- (6) PPS 5: Planning for the Historic Environment.
- (7) PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide
- (8) Blackheath Conservation Area Appraisal (2007).

#### **Zoning**

Adopted UDP – Area of Archaeological Priority (APA) 18: Blackheath and Blackheath Village

### **ENFORCEMENT REPORT**

#### **1.0 Site Description**

- 1.1 The property is a three storey semi-detached house with basement at the north-western end of Aberdeen Terrace, facing onto the Heath and adjacent to Pagoda Gardens. Until about 2008 the building had been converted into four separate self-contained units.
- 1.2 No. 5 Aberdeen Terrace is one of a pair of semi-detached Palladian style houses that form an entity with two other pairs of semi-detached villas built c. 1856 to the designs of John Whichcord Jnr. The buildings are Grade II listed and are within the Blackheath Conservation Area. They form one of the most imposing architectural compositions at the edge of the Heath.

#### **2.0 Planning History**

- 2.1 Listed Building Consent was granted in 2000 for the provision of a handrail on the front entrance steps.

- 2.2 In 2006 Listed Building Consent was granted for the conversion of the property from four self-contained flats into a single family dwelling, including associated internal alterations and the construction of a conservatory to the rear of the building. Consent for external alterations was given including the cleaning of the brickworks, the repair of the stucco and the refurbishment of the existing windows.
- 2.4 In March 2009, Officers were alerted to the fact that the front boundary wall to the property had been demolished and removed. At two subsequent site visits carried out in early May and June, Officers noticed that a number of unauthorised works had been carried out to the building including:
- the demolition of the boundary wall,
  - the painting of the stucco and terracotta elements,
  - the unsympathetic re-pointing of the side and rear elevations,
  - the removal of the lath and plaster ceilings, cornices and friezes of the main reception rooms at the upper ground floor and the main basement room,
  - the replacement of 21 of the 27 original windows and one balcony door with new double-glazed units.

Retrospective Listed Building Consent applications were subsequently submitted for all these works, except for the painting of these architectural details as the owner was informed that this was unlikely to be granted consent.

- 2.6 In 2009 amended plans were submitted and consent granted for the internal and external alterations in connection with the conversion works. Permission was also given for the removal of two bay trees to the front of the property.
- 2.7 Retrospective Listed Building Consent was granted in 2010 for both the removal and re-installment of the ceilings, plaster cornices and friezes and the repointing and brick repairs to the side and rear elevations . An application for the removal of the London Roof and its replacement with a flat roof was withdrawn following the advice from Conservation that this was unlikely to receive Listed Building Consent.
- 2.8 Applications for Listed Building Consent for the demolition of the boundary wall and its replacement, the retention of the new windows and balcony door, and the installation of a window to the side elevation, the construction of steps and railings/gates to the side and a fence to the rear and associated landscaping are currently pending.

### **3.0 Unauthorised works to the Listed Building**

- 3.1 At a site visit on 7 May 2009 Officer noted that the external stucco and terracotta architectural elements had been painted over with a white paint. The stucco was originally of a natural light beige colour meant to imitate stone. It had over time weathered to the pale grey. The terracotta elements were unglazed and showed colour variations from buff to a pale pink and orange, which is typical for the London clay that has been used for their production.
- 3.2 The painting of architectural embellishments, where these were not originally painted, would require Listed Building Consent. It is unlikely that an application for consent to retain the paint would be approved, mainly because of its detrimental impact on the appearance of the listed building and the unity it forms with No. 6 and the group as a whole.

- 3.3 The owner had been aware before carrying out these works that the painting of the architectural detailing of the building was considered unacceptable. In November 2005, while seeking consent for the conversion of the property, the owner had applied for Listed Building Consent for the stucco to be re-painted. Following the concerns raised by the then Conservation Officer, the plans were revised to omit the painting.
- 3.4 In the Officer's report (Appendix 3) the issue was specifically addressed and Listed Building Consent for the conversion and alterations granted with an additional condition stating that the approval only related to those works specifically indicated on the drawings. On the plans, it was stated 'Stucco to be repaired as necessary' and this was also highlighted as an amendment to the original proposals. (Appendix 4).
- 3.5 In June, the owner was subsequently informed that the painting was considered unacceptable and that specialist advice should be sought for the removal of the paint. At various follow up meetings, telephone conversations and correspondence in 2009 and 2010, the owner has been repeatedly asked to come forward with proposals for the removal of the paint.
- 3.6 On 25 September 2009, a letter was sent out by the Council's Enforcement Team setting out that the paint was considered to detract from the character and appearance of the building and the owner was therefore asked to remove the paint. A list of possible suitable craftsmen was provided to assist him with this task.
- 3.7 The owner responded on 30 September 2009, requesting the Council to accept the painting because its removal from the stucco may have a detrimental affect on the building's fabric. He also stated that numerous paint removals had been attempted, in some instances causing damage to the terracotta.
- 3.8 It is the onus of the owner to make good any damage that would occur as a result of carrying out unauthorised works to the building in the first place. The owner has also admitted that he has done repairs to the stucco detailing in a grey-coloured cementitious render that would visibly stand out. These are currently covered by the paint. It is unlikely that Listed Building Consent would be granted for these repairs should the owner apply because of their visual impact.
- 3.9 Only one trial area was shown to Officer's at a site visit in July 2009 to No. 3 Aberdeen Terrace where the paint had been removed with a brush and water. Although it showed a promising result, Officers consider that this might be too abrasive a method and affect the terracotta surface. At all times the owner has been asked to employ a specialist contractor to ensure that the paint is removed without any further damage to the architectural details.
- 3.10 In July 2010, the agent proposed to use a chemical paint removal system. The Conservation Section was sent a supplier's catalogue, though there was nothing in the catalogue to indicate that this might be a suitable system for the removing of paint from terracotta elements, and the agent was subsequently informed that in view of these doubts, Listed Building Consent would be required for using any of these systems.
- 3.11 Recent enquiries to the agent/owner with regard to the paint removal were left unanswered. At a site visit made on 7 October 2010 Officers noted that the contractor was taking down the scaffolding. It seems to indicate that the owner sees the works to the external elevations completed with no intention to remove the paint in the near future.

#### **4.0 Policy Context**

##### Saved Policies of the Unitary Development Plan (Adopted July 2004)

- 4.1 URB 18 Preserving Listed Buildings. – Changes of Use  
URB 16 New Development, Changes of Use and Alterations to Buildings in Conservation Areas.  
URB 3 Urban Design

##### Local Development Framework

- 4.2 In view of recent planning legislation which requires the Council to produce a new set of Planning Policy documents the Preferred Options Report has been prepared as part of the Local Development Framework (LDF) and contains policies that will be used to assess planning applications for new development and change of use. This document and also those UDP Policies which have been saved and taken forward for inclusion in the LDF process are thereby now material considerations to be taken into account in the determination of planning applications.
- 4.3 The following LDF policies are considered relevant:-

U20 Preserving Listed Buildings.  
U18 New Development, Changes of Use and Alterations to Buildings in Conservation Areas.  
U2 Urban Design

#### **5.0 Consideration of Enforcement Action**

- 5.1 The main considerations are whether the retention of the unauthorised alterations would cause harm to the special character of No. 5 Aberdeen Terrace as a Grade II listed building of special architectural and historic interest.
- 5.2 The significance of the Nos. 1 to 6 Aberdeen Terrace lies in their stylistic treatment, their grandeur and the great uniformity and formality of their arrangement. It is considered that the rich Renaissance and classical architectural detailing significantly contribute to the special interest of this group of building. The use of stucco and, for the finer and more delicate elements, terracotta added a pleasing and subtle contrast in colour and texture to the yellow London stock brick walls.
- 5.3 Terracotta experienced a great revival under the Victorians and was used for some of the most prestigious buildings of that period. The choice of the material for the construction of the Royal Albert Hall and the Victoria and Albert Museum in the 1860s proved to be major landmarks for the preference for terracotta detailing in the second half of the 19<sup>th</sup> century. Before that, it was used only occasionally, and its relatively early use at Aberdeen Terrace is notable and adds to the significance of this group of buildings.
- 5.4 Each pair of semi-detached houses were designed to appear as one grand villa. The paint at No. 5 now creates a stark contrast to the natural, aged colours of the elevations of No. 6 and the other houses. This effect is made stronger due to the brickwork of No. 5 having been over-cleaned. As a result, the white paint detracts from the entity the building forms with No. 6 and has a detrimental effect on the character of these group of buildings as whole. The building now stands out harshly from the rest of the group, destroying its uniformity.

- 5.5 Prior these works, the appearance of the building was determined by the natural colours of rather subtle differences of the stone-imitating stucco, the yellow brick and the buff coloured terracotta. Under the layer of paint, the difference between the stucco and the terracotta elements is entirely lost, and as a result the architectural detailing has lost definition and depth. Details, such as the Vitruvian scroll motif on the stucco frieze between the raised ground floor and first floor are hardly any longer noticeable in a flat sea of White.
- 5.6 The character of Nos 1-6 Aberdeen Terrace has already been affected by unsympathetic treatment to their architectural detailing. Nos. 1, 2 and 3 have had them painted in the past, perhaps prior to their listing in 1973. No. 3, also owned by Greenwich Properties, have had theirs repainted in 2009 – as they were already painted, the renewal of the paint it did not require consent, although the owner had been encouraged to take the paint off. No. 4 has had their stucco elements washed over with a grey cementitious top coat. However, the terracotta details remain in their original state and the overall effect has not been detrimental to the unity of the group.
- 5.7 Until recently, No. 4, 5 and 6 appeared as a group relatively unaltered, apart from a natural patina acquired with age. This makes the protection of individual features as well as the appearance of the buildings as a whole a particular necessity in order to ensure that the unity of this listed group is preserved.
- 5.8 It is reasonably practicable to remove the paint since it is not of an irreversible nature and the removal would not cause structural damage or the loss of the stucco or terracotta. A suitable paint removal method has to be investigated prior to any works undertaken and it is essential in this case that the right expertise is sought and a qualified contractor appointed. Any possible damage to the stucco or terracotta surface would need to be made good. From observations at No. 6 and photographs of No. 5 taken prior to the painting, the terracotta elements had been in need of some general repair and cleaning in any case.

## **6.0 Legal Implications**

- 6.1 Government Policy advice to local planning authorities on the use of their enforcement ***powers in respect of breaches of planning control as defined in the Town & Country Planning Act 1990*** is set out in Planning Policy Guidance Note No. 18. PPG 18 sets out the issues which local planning authorities should bear in mind when taking enforcement action as follows:
- (1) They have been given primary responsibility for taking whatever enforcement action may be necessary in the public interest;
  - (2) The Local Government Ombudsman can make a finding of “maladministration” if a Council fails to take enforcement action when it is plainly necessary to do so;
  - (3) The decisive issue in every case is whether the breach of planning control would unacceptably affect public amenity or the existing use of land or buildings meriting protection in the public interest;
  - (4) Enforcement action should always be commensurate with the breach of planning control involved;
  - (5) Where attempts to persuade the site owner or occupier to voluntarily remedy the breach are unsuccessful, negotiation on that issue should not be allowed to hamper the taking of whatever formal enforcement action which may be required.

### Listed Building Enforcement

- 6.2 The Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations.
- 6.2 If work is carried out without consent, a local planning authority can issue a listed building enforcement notice (section 38). The notice may (a) require the building to be brought back to its former state; or (b), if that is not reasonably practicable or desirable, require other works specified in the notice to alleviate the effects of the unauthorised works; or (c) require the building to be brought into the state it would have been in if the terms of any listed building consent had been observed.
- 6.3 It was held in the case of Bath City Council v Secretary of State for the Environment ([1983] JPL 737) that this provision could not be used to secure an improvement to a listed building compared to its state before the unauthorised works were carried out. There is a right of appeal to the Secretary of State against a notice; the appeal procedures are generally similar to those for enforcement of development control following the Planning and Compensation Act 1991, although there are no provisions equivalent to a planning contravention notice, nor is there any limitation on the period within which a listed building enforcement notice must be issued.

### **7.0 Conclusion**

- 7.1 In view of the above considerations, it is recommended that legal action be authorised to secure the removal of the paint from the stucco and terracotta elements. This should include the repair of the surface where the application of paint and subsequent removal has caused damage.
- 7.2 In view of the above considerations, it is also recommended that legal action be authorised to secure that any unsympathetic repairs of the stucco elements which are currently covered up by the paint are removed and replaced with stucco matching the original.
- 7.3 The reason for service of the notice is that the unauthorised works have caused harm to the special character of this listed building and its setting or the group of buildings it belongs to.

## **8.0 RECOMMENDATION**

- 8.1 Authorise the Head of Law to take all necessary legal action to secure the following within a period of six months from the Listed Building Enforcement Notice coming into effect:-

### Stucco:

- Removal of the paint from the stucco elements,
- Removal of the non-matching stucco repairs and replace with stucco matching in texture and colour the (newly cleaned) original.
- Repairs to the stucco as necessary where the application of paint and subsequent removal has caused damage.

### Terracotta

- Removal of paint from the terracotta elements;
- Repairs to the terracotta elements as necessary where the application of paint and subsequent removal has caused damage.

- 8.2 The owner is urged to employ the services of a specialist advice / contractor in order to ensure that the remedial works are carried out by to an acceptable standard.

### **Reason for issue of the Listed Building Enforcement Notice**

The unauthorised elevational works to this listed building has resulted in visual harm having been caused to both the building itself and also its contextual setting, contrary to the aims and objectives of Policies URB 18, URB 16 and URB 3 of the Council's adopted Unitary Development Plan, July 2004.

### **Appendices**

Appendix 1: Photographs

Appendix 2: Listing Description

Appendix 3: Officer's Report for the Granting of Listed Building Consent in respect of the alteration and conversion of 5 Aberdeen Terrace SE3, to provide a single family dwelling house, together with the construction of a conservatory, external works to the elevations and removal of existing staircase to the rear, Case Reference: DC/06/61428. Permission granted on 28.2.2006.

Appendix 4: Approved plans of revised elevation for the conversion of No. 5 Aberdeen Terrace, dated 27 February 2008, Case Reference: DC/06/61428

## Appendix 1 - Photographs



From left to right: No. 6 & 5 and 4 & 3 Aberdeen Terrace before works were carried out, date unknown (before May 2009, photograph submitted by the agent for a LBC application in 2009)



No. 5 (right) and No. 6 (left) Aberdeen Terrace (photograph taken 5.05.2009)





No. 3 & 4 (right) and 5 & 6 Aberdeen Terrace before painting and cleaning of No. 5, picture taken in February 2006



No. 5 Aberdeen Terrace after painting and cleaning, photograph taken 9.05.2009



Nos. 5 & 6 Aberdeen Terrace, detail of the projecting entrance bay (photo taken 17.6.2009)



Terracotta Rosette Frieze, stucco quoins and moulded dentilled cornice at No. 6 Aberdeen Terrace (photo taken 7.10.2010)



Stucco and Terracotta detailing of the fan moulding at the central bay to No. 6 Aberdeen Terrace (photograph taken 7.10.2010)



Terracotta Rosette frame surrounding the fan moulding at No. 4 Aberdeen Terrace (photograph taken 10.7.2010)



Terracotta Corinthian capital at No. 4 Aberdeen Terrace (photograph taken 10.7.2010)



Stucco window surround with terracotta consol brackets and stucco frieze above with Vitruvian Scroll ornament at No. 6 Aberdeen Terrace (photograph taken 7.10.2010)



Stucco window surround with terracotta consol brackets and stucco frieze above with Vitruvian scroll ornament at No. 6 Aberdeen Terrace (photograph taken 17.6.2010)



Consol bracket to window architrave, detail at No. 6 Aberdeen Terrace (left) and painted over at No. 5 (right).



Stucco frieze with Terracotta Vitruvian scroll ornament and Terracotta balustrade above, detail at Aberdeen Terrace No. 6 (photograph taken 7.10.2010)



Stucco frieze with Terracotta Vitruvian scroll ornament painted over, detail at Aberdeen Terrace No. 5 (photograph taken 17.6.2009)

## Appendix 2: Listing Description

### 1. ABERDEEN TERRACE

4424

Nos 1 to 6 (consec)

TQ 3876 9/81

II GV

2.

Mid C19. 3 large pairs. Each house 3 storeys and basement, 3 windows. Paired central entrance bays, slightly projecting and stucco faced. Greyish yellow stock brick, Stucco rusticated quoins support enriched entablature and parapet with cutwork panels. 2nd floor cill string. Broad band from 1st floor cills down to floor level, where there is guilloche moulding. Moulded stucco architraves to all windows, those on 1st and ground floor with console bracketed cornices, the 1<sup>st</sup> floor ones with segmental pediments. Entrance bays have Corinthian Order framing 1<sup>st</sup> floor windows under round arches with deep fan moulding in tympanum. On ground floor Tuscan Order frames round arched entrances with moulded architrave and scrolled keystone. Balustraded casement area. (No 3 has lost balustrade).

2. Nos 1 to 6 (consec) form a group.

Listing NGR: TQ3873476227