

Fenton House, Higher Ardwick, Manchester.

Further information on Condition Compliance Details.

[response to Manchester City Council email – 05/06/2023]

Response revised – 27 09 2023

Responses to the officer's comments in paragraph order:

1. Paragraph one – *As stated above, application CDN/23/0065 this is a comprehensive piece of work and is well considered, and thorough, with very much conservation led specifications and details. There are a few of queries and a few comments, however, that need to be addressed.*

1.1 Response – Thank you and noted. It is appreciated that there may now only be a few outstanding queries remaining.

1.2 This condition compliance exercise has been extremely challenging due to the large number of conditional items and the wide range of information required. These, combined with the use of pre-commencement stipulations on the agreement of information has caused some difficulty in providing the information at this stage prior to the implementation of the development. In many cases we have covered the question of submission of samples with product details and this approach is commended to alleviate unreasonable and onerous pressures and delays to the owner.

1.3 It should be noted that the owner has had to carry out urgent repairs to the building to remedy the significant amount of water ingress that was affecting the building. As you know the attic floor/roof of the building was damaged when a catastrophic fire occurred at the terrace row to the rear of Fenton House. The work to repair/recover the roof stacks and reinstate rainwater goods have been carried out pursuant to section 9[3] of the Planning [Listed Building and Conservation Areas] Act 1990 in the interests of health and safety and the preservation of the listed building.

1.4 The owner confirms that the works have been carried out in accordance with the details and principles contained in the Discharge of Condition application [D o C] information bundle of documents. These works are judged in any event to constitute repairs/reinstatements that do not affect the special character of the listed building and would therefore not require the benefit of formal listed building consent. If this work had not been carried out in an urgent fashion the building w

1.5 I would emphasise with all due respect that if this urgent work had not been carried out when it did, the condition of the listed building would have deteriorated at an accelerated rate with serious implications for the structural integrity of the building and the consequence of not completing these works would have increased the scheme costs to a point where the current adaptation scheme would have become unviable. It is, in any event close to this point at present.

2. Paragraph two – *There will need to be a number of samples, such as any new bricks, pointing, rendering, cleaning, internal decorative plaster reinstatement, sample repaired window etc submitted for consideration. A sample of the proposed*

secondary glazing will also be needed, as a number of products have been proposed, unless this can be clarified and final product details sent through.

2.1 Response - Please see Documents 4 and 5 of the initial submitted document bundle. This does include a programme for identified holds at key stages of the work programme. The client agrees to provide samples as shown in the document covering conditions three and four in the discharge of condition submission. The indicated programme in the initial submission confirms that pauses/holds points are incorporated into the build and these are specified at key points in the development.

2.2 Can I suggest that the approach could be taken to part agree/approve the general approach that Documents 4 and 5 advocate and then the product details a selection of samples that are not provided by product details in the current submission, but you may require, are subsequently delivered to your office if necessary. This approach will allow the approval of those details that have been submitted to date and selected samples/sample panels can then be provided on site when applicable when that part of the works is due to commence. You may wish, as an alternative to agree to the submission of photographs on that particular part of the proposed scheme.

2.3 There would be severe practical difficulties if further detailed submissions and sample clearances creates multiple D o C applications. These concerns centre on the resulting cost and potential delays in progressing the scheme. An approach by the City Council where the submission of individual formal D o C applications are expected for each subsequent sample approval as the scheme progresses is considered to be entirely unrealistic and in my opinion would constitute unreasonable behaviour by the City Council.

2.4 In relation to the work items listed the following comments are pertinent:

- **Details of proposed bricks and suppliers and mortar mixes for new walls** have already been submitted as part of Document 10 and Drawings 9A and 9B. [Please see paragraph 4.5 and 4.6 of Doc 10] These bricks are all considered appropriate for the new yard enclosure walls and any can be selected by the Council for approval. Alternatively details of new bricks and pointing for the construction of new exterior walls can be provided by the owner. In addition to those bricks previously proposed, the owner has sourced a reclaimed Cheshire brick and a sample of these can be delivered to the Council Offices if required.
- In the event of **replacement bricks being required**, samples of matching bricks could be subject to a later submission of samples. Having inspected the rendered elevations of the building we are currently confident that the permanent removal of the existing render on the external walls would be extremely damaging to the underlying brickwork.
- The issue and approach to the potential **removal of the existing render and options to follow** are covered in page 3 of Document 4. [Document 5, page 10 covers the specification for external wall treatment required by condition 3] Condition 15a) -15d) concurs with the submitted details of the proposed approach in that it lists the following stages for this part of the works:

1. A method statement for the removal of external elevation paint and render.
 2. Identify sample areas for the external elevations.
 3. The existing brick, paint and render shall be evaluated.
 4. A final method statement of the resulting treatment decided in condition 15c).
- Photographs of parts of the elevations show the condition of the underlying bricks, [See **Appendix A**] and we suspect that the moisture ingress in the existing bricks and their condition was the reason for the application of the render in the first instance. There is evidence from an inspection of the exposed brickwork on the Harkness Street elevation that the brickwork was painted prior to rendering. A photograph on page 14 of Document EN shows the upper floor of the property rendered with ashlar etching even at that time. The projecting right hand bay also showed extensive brick replacements at this time.
 - We agree with the approach outlined in condition 15, however, there is consensus now that the render cannot be removed satisfactorily whilst also avoiding significant and widespread damage to the underlying bricks. Experience of other similar cases of hard cementitious render have led us to conclude that attempts to remove the existing render by mechanical means would severely damage the faces/arises of the underlying bricks that would result in a decision to re-render the walls. Nevertheless Documents 5, and 6C and Drawings 6A and 6B give details of the owner's approach, which generally follows the Council's four part condition 15.
 - The owner has provided a photograph of an existing repaired patch of render. [This is included in **Appendix B**] I would be grateful if you could consider this as a sample that will be matched in the event that it is agreed that the existing render is to be retained and repaired?
 - We have specified a method for the **reinstatement of decorative ceiling plaster** in Documents 5 [pages 21-23 inclusive] and 7. Information on the existing position is found in Document 1. There is a limited amount of retained internal historic plaster of this type. I would be grateful if you could consider the information provided in these documents. The evidence from an inspection of the property is that there is no historic ceiling lime plaster applied to lathes in the basement and attic levels. The principal upper ground and first floor rooms do retain some lath and plaster ceilings. [Please see the Room by Room Schedule in Document 1]
 - The building was first listed in 1994 and as mentioned to Mr Paul Mason at a site meeting approximately 18 months ago now, the restoration of original fabric and features that were clearly lost prior to the date of listing cannot reasonably be expected. This would be an onerous requirement and would not be in line with established conservation principles in terms of restoration/reinstatement of features and materials. If the owner voluntarily agrees to wholesale reinstatements it would allow these to be factored into the scheme. However, this is not the case in this instance where the repair costs of the scheme and to provide up to date apartments is comparatively high.

- The submitted details are considered sufficient to meet policy, guidance and established conservation principles. The approval of the submitted details will enable the Council to maintain control of these aspects and would allow the project to progress. As it stands, the owner has provided a comprehensive bundle of information, but the longer it takes to determine the D o C application the greater the risk of greater development costs as the listed building continues to deteriorate and remain empty.
- Inspection and approval of repaired windows can be carried out by a sample inspection. If required a sample of the windows repair/replacement can be submitted to the Council Offices if required.
- The additional Document 5 that has been previously forwarded shows the **aluminium secondary glazing product** proposed with specifications. This document is forwarded again with the covering email for your consideration. This product detail is felt to be appropriate and would allow the owner to start placing orders for purchase, delivery and fitting.

3. Paragraph three – *There needs to be a hold point in the programme of work when the render is removed to fully assess the brickwork to see if this can be fully exposed as per the original design and construction - this would be ideal, but it is accepted that it may need to be fully rendered if it is in very poor condition. The submission more or less assumes that it will be poor hence the current rendering, but it needs to ensure that it is absolutely necessary.*

3.1 Response – This is covered above in point 2. Document 4 of the application bundle gives reasons for the view that the current hard cementitious render may be in poor condition with voids in parts and the underlying bricks are already damaged and certainly would be further damaged if it was insisted that the cement render is to be removed. These recommendations are based on an inspection of the current rendered elevations and experience of similar situations at other historic properties.

3.2 It has also been noted that a partial render was in existence on the building well before the date of listing. [see photographs on page 14 of the Explanatory Note Document] The original proposal to remove the render was made having given the existing render material type and its condition insufficient consideration.

4. Paragraph four – *The final finishes / decoration colours in key areas in particular the windows, render and railings need to be formally agreed, as grey, black or blue have been proposed as options for railings. It would be good to carry out some form of basic analysis to establish the original railing / metalwork colour and use this evidence to inform the final paint colouration and finish.*

4.1 Response - As mentioned in the application bundle, the condition of the render and the possibility of removing this whilst leaving the underlying brickwork undamaged has been given detailed preliminary consideration and this approach is not likely to be practicable. The existing render is a relatively recent second half of the 20th century cement render, and although some areas have deteriorated in condition to leave exposed patches of brickwork and voids other areas of the render are sound.

4.2 Subject to prompt agreement on the above, the proposed patch repair of missing or defective existing render can be removed and the sound render retained.

The patch repair render will be a lime mix with a bagged/sponged finish that matches the texture of the present sound render. [as indicated by the photograph included in **Appendix B**] All the render will be as specified in Document 5 pages 11 and 12 and have an off-white colour*. [nearest RAL – 9001]

4.3 The windows following replacement and repair, as indicated in the D o C Document 5 page 13, will be painted in the same off-white colour as above*.

4.4 It would not prove cost effective to add the expense of an historic paint analysis of the existing metal work to the overall cost of the scheme. The only historic external ironwork that survives on the building is the front canopy structure and vase balustrades at the main entrance. The owner proposes to strip the existing paint and to repaint in an exterior quality eggshell finish paint in black. This is considered appropriate for the listed building. The other external ironwork eg – the surviving boundary enclosures is modern and inappropriate and will be replaced by the ironwork shown in the D o C drawings and these features will also be painted in an eggshell black finish.

5. Paragraph five – *Condition 6 relates to M and E and services. Whilst there is a helpful overall strategy, there is a lack of detail in the submission and full details of the proposed M and E and services are required before this condition can be discharged.*

5.1 Response – A full M & E report/drawings have recently been completed and is forwarded separately with this response to the Conservation Section. The M & E information is provided on a floor-by-floor basis and is divided into the following subject headings:

- Small Power Data.
- Emergency Lighting and Alarm system.
- Proposed Heating Services.
- Proposed Ventilation Layouts.
- Proposed Water Services.
- Proposed Above Ground Drainage.

5.2 The above information on M & E proposals has been examined and is considered to be sensitive to the aspects of significance and character of the listed building.

6. Paragraph six – *The fire separation proposal seems well considered in terms of being able to preserve original ceilings and cornices, however reassurance that this is acceptable to comply with current building regulations and is therefore deliverable, is required.*

6.1 Response – The proposals for fire separation are sensitive and will allow significant surviving ceiling features to be safeguarded in situ. The client's building control consultant has confirmed that the proposals will achieve compliance with the relevant part of the Building Regulations.

7. Paragraph seven – *Condition no.13 relates to rainwater goods. The proposal is for cast aluminium rainwater goods. This is not the preferred option, as the originals would have been cast iron. The preferred option would be to revert back to the original specification. However, in order to achieve higher standards of conservation elsewhere within the scheme, the materials forming the rainwater goods may be*

accepted, subject to the colouration reflecting the original historic paint colouration and finish at the property.

7.1 Response – The requirement to replace all the existing rainwater goods with cast iron goods has been re-considered by the owner and this stipulation is to be followed and cast-iron rainwater goods in black are now proposed.

7.2 The 1960s photograph shows no visible rainwater goods on the Higher Ardwick and west elevations. There is a possibility therefore that outlet pipes were routed internally up to the late 20th century. Sometime after 1994 the adjoining row of terrace houses was severely fire damaged. This has resulted in previous rear internal walls being subjected to exposure to the weather. There were no rainwater goods on this part of the building.

7.3 In addition, having reconsidered the proposals for waste disposal, the routing of soil and vent pipes externally on the Harkness Street elevation is being reconsidered. Initial discussions with the M & E specialist have recommended internalising the soil & vent pipes. This approach is supported as it would lead to a ‘cleaner’, less cluttered appearance for the east elevation.

8. Paragraph eight – The condition relating to programming seems acceptable.

8.1 Response – Noted.

9. Paragraph nine – There seems to be a need to understand if there is a dry-rot / wet-rot problem. When this information is known, and the full extent of works is clear this needs to be submitted for consideration.

9.1 Response – The timber treatment specialist for historic buildings from Peter Cox has been engaged and has inspected Fenton House. A preliminary report on the damage to the listed building caused by damp ingress has been compiled. In on-going discussions with Peter Cox, it has been agreed that the improvements to the watertightness of the building, [See **above**] should be allowed to take effect. The present conclusion of the Peter Cox report is that a substantial amount of historic fabric will be lost if treatment work is undertaken whilst the building is wet and water ingress is continuing.

9.2 In these circumstances, the Peter Cox consultant and the client’s advisers have agreed that a period of ‘drying out’ would be beneficial aided by adequate through ventilation. A 2/3-month period is envisaged. This has been recommended by Peter Cox as an approach that will minimise the loss of fabric and will result in less risk of failure of treatment systems.

9.3 The final report will be forwarded on completion. Could overall agreement be given to the strategy specified in the current D o C documents and the submission of the final report will then complete the compliance with condition 22 for this item?

10. Paragraph ten – The schedule under condition 10 refers to Room GF-03 with a note that states - *Consider omitting new south storeroom if this will overlay existing dressed stone floor flags.* Is this being formally suggested? If so, then it is an improvement that would be supported in principle.

10.1 **Response** – The owner has revisited this part of the building and has confirmed that the location of the proposed new south storeroom [Ground floor room GF 03] is made up of timber floorboards laid on timber under floor joists. There are no underlying stone flags in this area. [see photographs on the following page]

10.2 This was a mistaken assumption made by the conservation adviser at the time of inspection. There is consequently no conservation reason to alter the existing proposed layout in this respect.



Looking east along the upper ground floor corridor with Room GF 03 shown at its eastern end.

11. **Paragraph eleven** – The same schedule states that *Proposal to remove steps with wrought iron rail and spindles has been granted listed building consent. Amendment to retain the existing servants' stairs would result in unviable loss of the only bedroom in new apartment 1.* Condition 10 was attached to the consent as the level of detail relating to the finalised design was not sufficient. Ideally the original steps and spindles should be retained, and the layout amended to work around these.

11.1 **Response** – Unfortunately the Conservation Section should recognise that the scale and manner of alteration to the design of the approved scheme it is requesting cannot be controlled by the planning authority at this stage. It was clear from the submitted plans and drawings of the planning and listed building consent applications that the existing basement level wrought iron rail and stairs up to the first floor was proposed for removal. If this feature was considered so significant that it needed to be retained, it should have been brought to the attention of the owner's architect at the application stage. The listed building consent was granted for the internal layouts and the conditions number 2 on these consents make it clear that the development should be carried out to that design.

11.2 Condition 10 of the LBC states –

'Notwithstanding the details shown on/within the approved drawings and documents listed in condition 2 of this approval, before the works relating to the removal of any section of original internal walls within the building commence, full details of the works proposed shall be submitted to and approved in writing by the City Council as Local Planning Authority. The scheme shall provide information on the section of wall to be removed, a justification for this, a method statement for these works and information on how the remaining building fabric would be made good. The approved details shall be implemented as part of the development and be completed prior to the first occupation of the development'.

11.3 As previously, mentioned the wider and more expansive interpretation of this condition by the City Council is not supported in law and guidance upon the use of

conditions. The extent of control that can be exercised by existing condition 10 is limited to the wall removals that have been granted listed building consent. Also, as previously stated the requirement to repeat the application exercise of justifications for these individual wall removals is considered to be unnecessary and is likely to be deemed *ultra vires*.

11.4 In view of the fact that the justifications included in the initial LBC application were clearly sufficient to result in the removals being agreed and granted Listed Building Consent by the LPA the requirement to justify the layout changes again is considered to be entirely unreasonable and unnecessary. The requirements in the condition for method statements and details of making good are considered to be reasonable and this information has already been provided in the D o C application bundle.

11.5 Consequently, the condition cannot be used to require changes to the partition layout proposed and granted approval, but it can require details of the works to achieve the approved alterations.

12. Paragraph twelve – *In the covering report outlining the approach to discharging conditions it states that:*

5.10 Condition number 10 of the listed building consent requires justifications to be made for removal of original walls.....

5.11 Having granted formal consent for the proposed layout of apartments, this exercise has not included justifications for all wall removals. It has been reasonably assumed that the LPA would have been satisfied with the proposed arrangement of rooms in the approved scheme when the listed building consent application was under consideration. Relevant guidance contained in NPPF and caselaw precedent makes it clear that a condition imposed on a consent cannot effectively override the substantive components of a scheme of works that has already been granted consent.

5.13 Notwithstanding the above matters the applicant has agreed on the basis of our recommendations, to enhance the character of the listed building by incorporating some minor alterations to the approved scheme. The objective here has purely been to fine tune the approved scheme to lessen adverse heritage impacts.

It is considered that if a high-quality restoration and good quality repairs will be delivered, then further consideration may be given to in regard to minor revisions to the internal layout on the basis of the effort to fine tune the proposals.

12.1 Response – The owner/applicant has reconsidered this request but has decided that the submitted and approved floor layouts included in the initial listed building consent application are the ones he wishes to implement. It must be borne in mind that this scheme design has been costed by the applicant and the future marketing of the apartment has taken account of the approved apartment unit layouts.

12.2 In technical terms the time to consider requesting changes to internal layouts in a listed building scheme is at application stage. That is why the conditions numbered 2 imposed on the planning and listed building consents have a stated requirement for the development works to be carried out in accordance with the approved plans and drawings. The purpose for this is to allow the planning authority to control future implementation and to give the applicant certainty of the

scheme that has been consented. Additional relatively minor or more substantive changes cannot be insisted upon at this stage.

12.3 Consequently, the owner's position, having considered the possible suggested changes to the layout and declined to implement them, is considered to be within his prerogative. The suggested changes would involve substantive alterations that may have required further consents and complications in any event. In this instance the owner wishes to implement the approved scheme although he has given serious consideration to the suggested alterations. Thank you.

Appendix A

Details of Existing Render Condition



The Harkness Street gable elevation showing widespread severely spalled and damaged bricks. Also, evidence of painted brickwork beneath the present render layer. [It should be noted that this is an area of render that has fallen off; other areas of remaining cement render may be significantly more difficult to remove]



*Detail of the underlying condition of the brickwork on the Harkness Street upper elevation
Above: Severely damaged faces to the brickwork near to the eaves and front gutter return.*



Close-up of damaged faces to the voussoirs and bricks above the first floor window and at eaves level.

Appendix B

Photograph of Render Panel to Replicate the Existing Render Finish

