



Appeal Decision

Site visit made on 18 March 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/W2845/F/21/3283700

Bartholomew Arms, 30 High Street, Blakesley, Towcester, NN12 8RE

- 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 Act").
- The appeal is made by Mr Harry Hopewell against a listed building enforcement notice issued by the West Northamptonshire Council.
- The listed building enforcement notice was issued on 24 August 2021.
- The contravention of listed building control alleged in the notice is, without listed building consent, the use of cement mortar to fill in cracks in the wall on the outbuilding of the public house instead of lime mortar. The use of the incorrect mortar is not in keeping with the character or appearance of the original building and significantly impacts upon the fabric of the listed building, (as shown on the photographs at Annex 1 of this notice).

- The requirements of the notice are:

Remove cementitious mortar and repoint with lime mortar.

Works should not take place during periods of heavy rainfall, extreme cold or extremely hot conditions. A trial area of pointing should first be undertaken to ensure appropriate colour and profile match with the building. This should be left to dry for a period of seven days before inspection by the Local Planning Authority.

SCHEDULE OF WORKS

1. Carefully, using hand tools only, remove cementitious mortar on the gable and both side elevations. Further raking out may be required to ensure a minimum depth of 2 x joint width, or until stable material is reached. Use appropriate hand tools (joint raker).
2. Brush out any loose materials and dust from the open joint.
3. Damp down the stonework and the mortar joints, but ensure there is no excess water on the surface.
4. Mortar mix should be suitable in both colour and texture to surrounding traditional mortar whilst working with the breathable and flexible qualities of the building.
5. The mortar mix needs to be as stiff as possible but workable. The mix should be of a ratio of 3:1 with 3 parts well graded sharp sand to 1 part lime putty or hydraulic lime (no hydrated lime or cement should be used in the mix).
6. The mortar should be applied in small amounts a section at a time and needs to be pushed firmly into the joint in layers.
7. Allow the mortar to firm up (or wait until the surface of the mortar takes on a leathery texture).
8. Mortar should be pushed firmly back into the joints using an appropriate pointing iron no wider than the width of the joint with the vertical joints taken first and then the horizontal. Works should start at the top of the wall and proceed downwards in an ordered sequence.
9. When complete the joints should be filled with sufficient mortar so that it is roughly level with the face of the masonry ensuring that the width of the new joint is no greater than the original.
10. Using a churn brush or naturally bristled stiff brush, after allowing time for an initial set, beat the surface of the joint flat on (do not drag as this may lead to staining of the masonry). This will compress/consolidate the mortar and exposes the coarser aggregate. If holes appear in the mortar, fill them and repeat the process. Loose

material should fall away from the masonry.

11. To finish the area off use a soft brush across the face of the whole wall to remove further loose material.

12. Take care that the mortar does not dry too quickly or become damaged. Carefully remoisten the finished mortar by spraying after 24 hours and repair any cracks that have appeared.

13. Protect the repointing for a period of at least a week using damp sacking (Hessian).

NOTE: If mortar gets onto the face of the masonry brush or beat it off when it is dry. Removal whilst the mortar is wet will spread staining. Photographs illustrating the appearance of the building prior to these alterations are attached as Annex 1 to this notice.

- The period for compliance with the requirements is 3 months.
 - The appeal is made on grounds (e) and (f) as set out in section 39(1) of the Act.
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Decision

1. The listed building enforcement notice is quashed.

The Listed Building Enforcement Notice

2. There are some errors and ambiguities in the notice. As such, I have a duty to get the notice in order, using the powers available to me in s41(1) of the Act, provided that any such corrections will not cause injustice to the parties.
3. Contraventions of listed building control are incorrectly referred to as breaches of planning control at Sections 1, 3 and Schedule 2 of the notice. However, they are minor errors and by themselves have not led to any confusion. I could correct them without injustice to the parties.
4. Section 38(2) requires the notice to "*specify*" the alleged contravention of listed building control, the steps to be taken and time limits, and whether the steps relate to s38(2)(a), (b) or (c). The notice does not specify to which of (a), (b) or (c) within s38(2) the steps relate. It appears from the Council's evidence that they relate to s38(2)(a) "*for restoring the building to its former state*". This by itself could also be correctable although I have some doubt as to whether the appellant has understood the notice in this way.
5. Notwithstanding the above, the alleged contravention at Schedule 2 of the notice refers to "*cracks in the **wall***" (singular) of the outbuilding "*as shown on the photographs at Annex 1 of this notice*". Consistent with this description the photograph shows only the road side elevation of the outbuilding. Additionally, the Council's submitted appeal questionnaire and the appellant's appeal form both confirmed that the relevant part of the appeal site could be seen from the public road.
6. However, contrary to the foregoing, the requirements go further and beyond the allegation by requiring works to three walls, adding the gable end and the internal courtyard elevation. These are not readily visible from the roadside and so I was unable to inspect them during my visit to the appeal site. In any event I cannot correct the allegation to include the other two walls as that would expand upon the scope of the alleged works resulting in injustice to the appellant.
7. I have considered whether I should correct the requirements so as to exclude remedial works to the other two walls, thereby making the allegation and requirements consistent. However, in my view requiring only partial/piecemeal

remedial works to a larger problem that should be dealt with holistically, is not likely to be in the best interest of the listed building as a whole.

8. Also, significantly, reducing the requirements to relate only to one wall would then raise another potential ground of appeal under s39(1)(i), as to whether the reduced requirements "*for restoring the **character** of the building to its former state*" would serve that purpose. In this regard it should be noted that "*former state*" is the state of the building prior to **any** contravention not just the contravention subject of the notice (if it were so corrected). The Council has not submitted evidence on such a scenario and, moreover, the appellant has not had an opportunity to lodge an appeal on ground (i). Such a correction would therefore result in injustice.
9. For the reasons given above, I conclude that the notice does not specify with sufficient clarity the alleged contravention of listed building control. It is not open to me to correct the error in accordance with my powers under s41(1) of the Act, since injustice would be caused were I to do so. Consequently, the notice is invalid and is quashed.
10. In these circumstances, the appeals on the grounds set out in s39(1)(e) and (f) of the Act do not fall to be considered.

Thomas Shields

INSPECTOR