



Appeal Decisions

Site visit made on 25 July 2023

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 15/09/2023

Appeal A Ref: APP/R0660/F/22/3307405

Appeal B Ref: APP/R0660/F/22/3307406

The Stables, Kynsal Lodge, Woodhouse Lane, Buerton, Crewe, Cheshire CW3 0DR

- The appeals are made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) as amended.
- Appeal A is made by Mr John Richard Jarvis against a listed building enforcement notice issued by Cheshire East Council. Appeal B is made by Mrs Nicola Jarvis.
- The enforcement notice was issued on 17 August 2022.
- The contravention of listed building control alleged in the notice is without listed building consent:
 - a. The unlawful removal and rebuilding of the main central entrance archway to the building as shown on Plan 1 attached to this Notice.
 - b. The unlawful relocation of original entrance door from its recessed position and insertion of double glazed and timber entrance doors with glazed and timber panel either side and glazed section above into reformed entrance archway flush with the front (west) elevation of the building.
 - c. The unlawful installation of 9 uPVC windows in the front (west) elevation of the building as shown on Plan 6 A-G and Plan 7 H-I attached to this Notice.
 - d. The unlawful reduction in the size of the loft opening on the first floor of the building located centrally in the front gable on the front (west) elevation of the building. As shown on Plan 7 Opening H attached to this Notice.
 - e. The unlawful reduction in the size of the loft opening on the first floor immediately to the right-hand side of the front gable on the front (west) elevation. As shown on Plan 7 opening I attached to this Notice.
 - f. The unlawful creation of an opening and insertion of a uPVC window on the ground floor of the southern elevation. As shown on Plan 3 Window A attached to this Notice.
 - g. The unlawful bricking up of a window opening located directly below the roof apex in the southern elevation of the building.
 - h. The unlawful creation of an opening in a central position and insertion of a uPVC window on the first-floor southern elevation of the building. As shown on Plan 3 Window B attached to this Notice.
 - i. The unlawful bricking up of a door opening on the left-hand side of the ground floor of the southern elevation of the building.
 - j. The unlawful creation of two additional window openings at first floor on the rear (east) elevation. As shown on Plan 2 Windows A and B attached to this Notice.
 - k. The unlawful installation of fourteen roof vents on the ridge of the roof of the building.
 - l. The unlawful removal of a staircase and replacement with a new staircase in the building.
 - m. The unlawful installation of a uPVC door at ground floor in the northern elevation of the building. As shown on Plan 5 attached to this Notice.
 - n. The unlawful installation of four uPVC windows on the ground floor of the northern elevation of the building. As shown on Plan 5 attached to this Notice.
 - o. The unlawful erection of a conservatory on the rear (east) elevation of the building. As shown on Plan 4 attached to this Notice.

- p. The unlawful removal of a section of the inner brick skin of the wall of the ground floor room located immediately to the right of the front entrance lobby and the insertion of plastic alcove insert.
- q. The unlawful installation of concrete window sills in the front (west) elevation of the building.
- r. The unlawful removal of metal rainwater goods and the replacement with plastic rainwater goods and soil and vent pipe.
- s. The unlawful application of ornate plasterwork in the ground floor lounge (northern most room shaded yellow as shown on Plan 8 attached to this Notice) including coving, ceiling rose and covering of timber beams.
- t. The unlawful insertion of a partition wall in the garage attached to the main two storey section of the building as shown on Plan 9 attached this Notice.
- u. The unlawful insertion of three roof lights in the rear (eastern) roof plane of the building. As shown on Plan 10 attached to this Notice.
- v. The unlawful creation of one single and one double door openings and the insertion of doors to the ground floor rear (east) elevation of the building. As shown on Plan 2 Doors C and E attached to this Notice.
- w. The unlawful creation of a small window opening in the ground floor rear (east) elevation of the building and the insertion of a window. As shown on Plan 2 window D attached to this Notice.
- x. The unlawful insertion of French doors in the rear (east) elevation from the kitchen to the conservatory of the building.
- The requirements of the notice are to restore the building to its former state by taking the following steps:
 - i. Remove the unauthorised double glazed and timber front entrance doors, glazed and timber side panels and glazed infill above the doors and the associated frame in their entirety as shown on Plan 1.
 - ii. Remove the unlawful archway to the main entrance in the front gable and rebuild the main entrance archway with gauged brick voussiors to replicate the arches and stone and brick voussiors on the carriage block arches (as shown on Photograph A).
 - iii. Reinstate a single central solid timber door on the ground floor in the recess of the central bay with a single glazed single light window with timber frame to either side of the door. The top of the window frame to be in line with the top of the door frame. The bottom sill of the window not to come further than halfway down the door as shown on Plan 1 attached to this Notice.
 - iv. Replace the unauthorised uPVC windows A-G on Plan 6 attached to this Notice in the front (west) elevation with timber single glazed windows. The windows on the first floor (E-G) are to be cross windows (1/3 over 2/3). The windows on the ground floor (A-D) are to have a central single vertical glazing bar. All of the windows (A-G) are to be set in a 100mm reveal and are to be painted using a white eggshell exterior paint.
 - v. Reinstate the loft door opening and loft door in the central gable at first floor shown at H on Plan 7 attached to this Notice. The loft door is to be set in a 100mm reveal and is to be fabricated using vertical timber boards to match the timber doors on the ground floor northern elevation and painted using a
 - vi. white eggshell exterior paint. The overall size of the opening is to be increased in depth by 10 courses of brickwork below the existing opening.
 - vii. Reinstate the loft door opening and loft door to the right-hand side of the gable shown at I on Plan 7 attached to this Notice. The loft door is to be set in a 100mm reveal and it is to be fabricated using vertical timber panels to match the timber doors on the ground floor northern elevation. The overall size of the opening is to be increased in depth by 10 courses of brickwork below the existing opening.
 - viii. Remove the two unauthorised first floor windows in the rear (east) elevation, highlighted in yellow and annotated A and B on Plan 2 attached to this Notice, and brick up the opening with bricks to match existing with traditional lime mortar without cement. Make good internally by re-plastering the walls to match existing.
 - ix. Remove the unauthorised ground floor small window in the rear (east) elevation, highlighted in yellow and annotated D on Plan 2 attached to this Notice, and brick up

- the opening with bricks to match existing with traditional lime mortar without cement. Make good internally by re-plastering the walls to match existing.
- x. Remove the unauthorised uPVC ground floor window, highlighted in yellow on the plan and annotated A on Plan 3 attached to this Notice, in the southern elevation and brick up the opening with bricks to match the existing with traditional lime mortar without cement. Make good internally by replastering the walls to match existing.
 - xi. Remove the unauthorised uPVC window at first floor in the southern elevation, highlighted yellow and annotated B on Plan 3 attached to this Notice, and brick up the opening with bricks to match existing with traditional lime mortar without cement. Make good internally by re-plastering the walls to match existing.
 - xii. Demolish the unauthorised conservatory on the rear (east) elevation in its entirety highlighted yellow on Plan 4 attached to this Notice (including the removal of the timber panelling from the brickwork on the rear (east) elevation) and remove all resultant materials from the Land.
 - xiii. Remove the French doors and frame, including brick lintol, serving the conservatory from the kitchen and brick up the opening using bricks to match existing and traditional lime mortar with no cement. Make good internally by re-plastering the walls to match existing.
 - xiv. Break up and remove all foundations and concrete base of the conservatory and remove all resultant materials from the Land.
 - xv. Make good any brickwork to match existing with traditional lime mortar without cement as necessary as a result of compliance with requirement xi).
 - xvi. Remove the 4 unauthorised uPVC ground floor windows shown on Plan 5 attached to this Notice in the northern elevation of the building and replace with timber single glazed windows with a central vertical glazing bar and set in a 100mm reveal and painted using a white eggshell exterior paint.
 - xvii. Remove the unauthorised plastic moulded alcove insert and make good the damaged brick work to match existing of the wall in the ground floor room immediately adjacent the entrance lobby. Install dry lining to match existing and re-plaster the wall to be flush with the existing wall.
 - xviii. Remove the unauthorised uPVC door in the northern elevation and replace with a timber vertical panel door to match the timber door located immediately to its right hand side and painted using a white eggshell exterior paint. As shown on Plan 5 attached to this Notice.
 - xix. Remove all concrete window sills from the front (west) elevation of the building and replace with stone sills of a similar size.
 - xx. Remove all unauthorised plastic rainwater goods and the soil and vent pipe and replace with black cast metal rainwater goods.
 - xxi. Remove all unauthorised plasterwork from the ground floor lounge shown highlighted yellow on Plan 8 attached to this Notice, located at the northern end of the building, including the coving, ceiling rose and plasterwork covering timber beams.
 - xxii. Make good the plasterwork on the walls as a result of works undertaken in accordance with requirement xxi).
 - xxiii. Remove the unauthorised partition from the single storey carriage building in its entirety and remove all resultant material from the Land. As shown on Plan 9 attached to this Notice.
 - xxiv. Remove the three unauthorised roof lights in the rear (eastern) roof plane highlighted yellow on Plan 10 attached to this Notice and make good the roof using materials to match the existing roof covering. Make good the ceilings by plastering to match existing.
 - xxv. Remove the unauthorised single and double doors from the rear (east) elevation, doors C and E on Plan 2 attached to this Notice, including the frames. Brick up the openings using bricks to match the existing with traditional lime mortar without cement. Make good the internal walls by plastering to match existing.
 - xxvi. Remove the small window on the ground floor rear (East) elevation window D highlighted in yellow on Plan 2 attached to this Notice. Brick up the opening using

bricks to match the existing with traditional lime mortar without cement. Make good the internal walls by plastering to match existing.

- The period for compliance with the requirements is 12 months.
- The appeals are made on the grounds set out in section 39(1)(a), (c), (g), (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).

Summary of Decision: The appeals succeed in part. The enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Preliminary Matters

1. I note the appellants' explanation of the events leading to the issue of the enforcement notice and the subsequent appeal. I understand that there are outstanding applications for planning permission and listed building consent (Ref 21/0360N and 21/0361N). As a result, there is no ground (e) appeal, that listed building consent ought to be granted for the works, as the appellants sought to resolve matters through the application process. For the avoidance of doubt, the merits of the works described in the notice are not before me. Consequently, works to other properties in the vicinity and the policies of the Buerton Neighbourhood Plan, are not relevant. I must deal with the appeal on the evidence submitted.
2. The appellants have appealed on the grounds set out above. However, the evidence in relation to allegations a) and r) is that the contraventions have not taken place. The Council has responded to the evidence accordingly. I have, therefore, considered these matters under a separate ground (b) appeal.
3. In addition, the appellants have submitted that copies of the notice were not served as required by Section 38(4) of the 1990 Act, because that served on Mrs Nicola Jarvis was not sent to the correct address. However, even if the notice was not served as specified in s38(4), Section 41(5) allows for this fact to be disregarded if no substantial prejudice has resulted. In this case, Mrs Jarvis has responded by making an appeal and, as such, there has been no substantial prejudice.
4. Allegation (i) concerns the bricking up of a door opening on the left-hand side of the ground floor of the southern elevation. The Council has not identified the door on any of the plans attached to the notice. In its evidence, the Council says that an aerial photograph, dating from c.1976, shows an opening immediately to the right of window A, on Plan 3. I agree there appears to be an opening in the location described, but it is not large enough to have been a doorway. However, the aerial photograph does show the outline of a further opening to the left side of the gable, which seems to have been a door opening. It may be that this is what is targeted, but it is unclear.
5. In addition, I saw that an opening with a flat arched brick lintel on the same elevation had been altered in size, although a door was in place of what appears to have been a window opening. The Council's evidence also indicates that this alteration is unacceptable. However, the allegation only refers to one opening, and that being a former doorway not a window. In view of the ambiguity and uncertainty, I conclude that the notice should be corrected by deleting the allegation. There is no corresponding requirement in any event, and I am satisfied this correction can be made without injustice. I will correct the notice to delete allegation (i), due to uncertainty.

6. Also, requirement (xxvi) duplicates requirement (ix), and requirement (xv) duplicates (xi). The notice will be corrected to delete (xxvi) and (xv).

The ground (b) appeals

7. The appeals on ground (b) are that the matters alleged to constitute a contravention of Section 9(1) or 9(2) of the 1990 Act have not occurred. Allegation (a) concerns the removal and rebuilding of the main central entrance archway to the building. The Council relies on evidence from the listing description, plans submitted in association with applications for planning permission (P94/0925) and building regulations approval (Ref 95/0094) and physical evidence.
8. The listing description refers to the "Central slightly projecting bay with wide basket-arched entrance to the ground floor with voussoirs of gauged brick" and "4 basket-arched carriage doorways with gauged brick voussoirs" in the single storey right wing. I saw that the span of the entrance archway is wider, and the arch is flatter than those of the single storey wing, but this fits with the description of a "wide basket-arched entrance". In other respects, the entrance archway reflects the carriage arches on the projecting wing. The only difference I can establish between what exists now and the carriage arches, aside from the width, are the stone impost.
9. The Council suggests that different brickwork in the lower courses at the side of the archway, and lack of imposts, shows it has been removed. I agree there is evidence of alterations to the lower brickwork, but it does not follow that this shows the archway itself has been removed. I note that the existing plans, submitted with the previous applications, show a different type of archway which is more curved and segmental. It does not display the features of a basket arch, or even a depressed / three centred arch which is the term favoured by the Council. I do not agree, therefore, that this drawing can be relied upon, nor is the physical evidence convincing. The internal arch at Kynsal Lodge, to which the Council refers, does little to assist. In addition, the photograph supplied by the appellants, which is undated but was clearly taken before the building conversion, shows the archway as it is now.
10. I conclude on this matter that the unlawful removal and rebuilding of the main central entrance archway, allegation (a), has not occurred. Even if I were to uphold this part of the notice, the corresponding requirement (ii) is to rebuild the main entrance archway to replicate those of the carriage block arches (photograph A of the notice). Given the relatively minor differences, I can see no useful purpose to this requirement.
11. Allegation (r) relates to the removal of metal rainwater goods and their replacement with plastic. Plastic soil and vent pipes, and waste pipes formed part of the 1995 permission. However, it is not clear what was in place at the time of listing. I saw that the plastic downpipes differed in age and colour. As such, it may well be the case that there was a mix of historic metal rainwater goods and new plastic pipes at the time of listing. Overall, the evidence in relation to the removal of historic metal rainwater goods after listing is very limited and I conclude, on the balance of probabilities, that this contravention as described has not occurred.

12. The ground (b) appeals succeed to this extent. The notice will be varied to remove allegations (a) and (r) along with the corresponding requirements (ii) and (xx).

The ground (a) appeals

13. In order to succeed on a ground (a) appeal, the appellants must show that the building is not of special architectural or historic interest. The appellants indicate the statutory listing was made in error and the building has since been so altered that it is no longer worthy of listing.
14. The building was listed on 5 September 1986 and was described as a stable block c.1850 by Thomas Baker of Highfield. The listing description details the brick bond, plan form, openings and fenestration. It is apparent that the architectural design and features were thought to contribute to its special interest as a former farm building. In addition, the building is included for its group value, which is the extent to which the exterior contributes to the architectural or historic interest of any group of buildings of which it forms part. In this case, there is a historical functional relationship between the appeal building and the group of former agricultural buildings in which it is located. The former stables formed part of a farmstead of local importance given the scale and extent of the historic buildings. In my judgement, the building was worthy of statutory listing. The fact that the listing description is brief and refers only to the front elevation does not indicate a building of lesser importance. Such descriptions are not intended to be a full inventory of features, they serve to identify the building and provide a short summary of its special interest. Similarly, the standing of the architect is not relevant in considering whether the building is of architectural interest.
15. I note that planning permission was granted in July 1986 for the residential conversion of part of the ground floor of the stable block (Ref 7/13235), prior to listing, and a further permission was granted for the conversion of a barn to form a dwelling and granny annexe at Kynsal Lodge Farm (Ref 94/0925 dated 12 January 1995). It is argued that these permissions and subsequent works have resulted in domestication of the building. While I agree that alterations have taken place to enable the change of use to residential, these are not so extensive that its former use as a stable block is undiscernible. The former use remains evident from the building's form and features. Overall, I do not consider that the alterations mean the building is no longer worthy of listing.
16. For the reasons given above, the appeals on ground (a) fail.

The ground (c) appeals

17. In order to succeed on a ground (c) appeal, the appellants must show that the matters alleged do not constitute a contravention of Section 9(1) or (2) of the 1990 Act. The main issue under this ground is whether there has been a breach of listed building control. There is no dispute that the works identified in the notice have affected the special interest of the listed building. Furthermore, there is no evidence of any listed building consent. Therefore, what I must decide is whether the works were undertaken prior to the listing in 1986, in which case they would not have constituted a breach of listed building control. It is necessary to deal with each disputed allegation in turn, noting that I have already considered (a), (i) and (r) above.

18. In relation to allegation (b), which concerns the entrance door, there is no dispute that the doors in place are not the doors that existed at the time of listing. The listing description refers to "a central door with single-light windows to either side", whereas I saw the entrance comprises double doors with glazed side panels with an arched light above. The incorrect reference to double-glazing in the allegation and requirement (i) can be rectified without injustice through minor corrections.
19. Allegations (d) and (e) concern the reduction in size of two loft openings on the first floor of the front elevation. The plan submitted with application Ref P94/0925, existing elevation 03/RG/BC dated January 1994, indicates these openings had already been reduced in size by that date. However, the listing description refers to a "loft door with gable over" and a further loft door to the right. There is little doubt that the loft openings were present at the date of listing and the alterations that have taken place since constitute a contravention of listed building control.
20. Allegations (f) and (h) concern two openings and insertion of windows on the ground and first floors of the southern elevation. The windows do not appear on the existing plans 01 and 02/RG/BC dated January 1994 nor the existing/proposed elevation drawing 07/RG/BC dated January 1994, although they are shown on the proposed floor plan 04/RG/BC dated March 1994. I note there was an opening on the ground floor of this elevation as it appears on an aerial photograph, but this was in a different location to that targeted. The current windows are uniform in size and their locations are central to the rooms, which suggests they were associated with the later permissions. On the balance of the evidence, it is likely that the window openings in their current form post-date the listing.
21. Allegation (g) relates to the bricking up of a window opening below the gable in the southern elevation. The appellants do not dispute that a window existed, as it appears on the aerial photograph, but suggests the works pre-dated the listing. The window is not shown on any of the submitted plans, but I consider it likely that the works took place as part of the other alterations to this gable, pursuant to the 1995 permissions, which was after the building was listed.
22. Allegations (o) and (x) concern a rear conservatory extension and French doors. The appellants argue that these pre-dated the listing. I accept that these features appear on the existing plans and elevations, January 1994, and they may well be associated with the 1986 permission. However, I accept the Council's point that, even if the works were approved in 1986, it is unlikely they were in place when the building was listed given the short timescale between approval in July 1986 and listing in the following September. In any event, the conservatory which currently exists is larger than shown on the plans and the aerial photograph.
23. Allegation (p) concerns the removal of a section of the inner skin brick wall and insertion of a plastic cove insert into one of the ground floor rooms. At the time of my visit, this feature had been removed and the appellants indicate the repairs would be carried out as required.
24. Allegation (q) is that concrete window sills have been installed in the front elevation, although their precise locations are not identified within the notice. I saw there was a concrete sill under the central window opening at first floor level. This alteration was probably carried out when the opening was reduced in

size, which I have already concluded was after the date of listing. The Council maintains there are a total of four unauthorised concrete sills located at first floor level on the front elevation, which I assume are those either side of the central window. However, that would make five sills in total. The allegation needs to be clear, so the recipient of the notice knows what is required. Consequently, I consider a correction is necessary. I will correct allegation (q) to specify the sill below the central window opening at first floor, since I am satisfied this constitutes a breach of listed building control. However, I will not expand the allegation to include the other four window sills because of the uncertainty. I do not consider this correction would result in injustice as compliance was not assured due to the ambiguity. I will delete the requirement (xix) and there will be a consequent variation to requirement (v)/(vi), which relates to the reinstatement of the loft door opening in the central gable at first floor.

25. Allegation (t) concerns the partition wall in the garage. This does not appear on the existing or the proposed plans (01 and 04/RG/BC) and the date of the works is unknown. The proposed plans show a new internal doorway between the kitchen/breakfast room and the garage, and I consider it probable that the works took place when the permissions were implemented.
26. Given the above, I find that it has not been shown the alleged matters, that are in dispute, (b), (d), (e), (f), (g), (h), (o), (x), (p), (q) and (t), do not constitute a contravention of Section 9(1) or (2) of the 1990 Act. Matters (c), (j), (k), (l), (m), (n), (s), (u), (v) and (w) are not disputed under this ground of appeal, and I find it has not been shown that these matters do not constitute a contravention of Section 9(1) or (2) of the 1990 Act.
27. Consequently, there has been a breach of listed building control and the appeals on ground (c) must fail. I am satisfied I can use my powers of correction without injustice in relation to allegations (b) and (q), and make consequential corrections/variations to the requirements, for the reasons explained above.

The ground (g) appeals

28. Section 38(2) of the 1990 Act provides that a listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken (a) for restoring the building to its former state; (the former state being its former 'authorised' state; the state at the time of listing or as approved through listed building consent) or (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or (c) for bringing the building to the state in which it would have been in the terms of any listed building consent which has been granted for the works had been complied with.
29. The notice specifies that its purpose is to restore the building to its former state and, as such, it has been issued under s38(2)(a). The corresponding ground of appeal pleaded is ground (g), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. There is limited evidence of the building as it existed prior to the unauthorised works and at the date of listing in 1986 and my conclusions are based on the balance of probabilities. Ground (g) is directed at the state of the

building in architectural terms and not to its state of repair. However, the requirements should not be used to secure betterment.

30. Requirements (i) and (iii) concern the main entrance doorway and seek to reinstate a single central door with single-light windows either side to reflect the doorway that existed at the time of listing, as described in the listing description. Requirement (iv) seeks the replacement of seven uPVC windows on the front elevation with white painted timber. The replacement windows sought for the openings shown as A-G on Plan 6 reflect those described in the listing description. The use of white painted timber is not specified in the description, but it is likely that the window frames would have been painted. I am satisfied that these requirements, with the correction to (i) to remove the reference to existing double glazing, would serve to restore the building to its former state.
31. Requirement (v)/(vi) concerns the loft door opening in the central gable, and (vii) concerns the opening to the right hand side of the gable, shown as H and I respectively on Plan 7. The Council is seeking to secure the reinstatement of the loft doors as noted in the listing description. It is probable that a simple vertical boarded door is what would have been present at the time of listing, and it would be usual for this to have been plain wood or possibly painted white. However, the requirements specifically require the opening to be increased in depth by 10 courses, which would be problematic given the position of the central archway and the window below the right-hand loft door. In addition, the required painting in (v)/(vi) is unnecessary. It would be sufficient to require reinstatement of the door without being overly specific on the size or finish. I shall, therefore, vary the requirements (v)/(vi) and (vii) to delete the final sentences, and include the requirement to reinstate the stone cill under the central loft opening.
32. Requirements (viii) and (ix) relate to the bricking up of three windows on the rear elevation, shown as A, B and D on Plan 2. Requirement (xxv) concerns the bricking up of single and double doors, shown as C and E on Plan 2. As explained, there is very limited evidence of the state of this side of the building at the date of listing. The existing and proposed plans and elevations (Refs 01/RG/BC, 02/RG/BC, 03/RG/BC, 04/RG/BC and 06/RG/BC) suggest windows and a door were in place, but these do not correspond with those existing at the time of my visit. However, the plans post-date the listing by several years and there is no other corroboratory evidence. In any event, the required works would not return the building to its appearance as shown in the existing plan, even if that accurately reflected its state at listing. In addition, the requirements include re-plastering internal walls, although there is no evidence of the condition of the internal walls at the time of listing. As such, I cannot be sure on the balance of probabilities, that simply bricking up these openings and making good internally would not exceed what is necessary to restore the building to its previous state. Consequently, I shall delete these requirements.
33. Requirements (x) and (xi) concern two windows in the gable of the southern elevation, windows A and B on Plan 3. Again, these openings do not appear on the existing plans. There is some corroboratory evidence, however, from the aerial photograph which shows openings in the gable albeit in different positions to the current windows. Nonetheless, if these requirements were to be carried out, the resultant southern gable would be a blank wall, with plastered internal walls, which is highly unlikely to have been its state at the

date of listing. As such, I am not satisfied that these requirements are not excessive, and they should be deleted.

34. Requirements (xii) and (xiv) concern the conservatory and require its removal. I am satisfied that this feature was not in place at the date of listing and, hence, its removal is justified and not excessive. However, (xiii) concerns the French doors giving access to the conservatory. The existing plans show this opening was in place and may well have been part of the works pursuant to the 1986 permission. Moreover, I have already concluded that evidence in relation to openings on the rear elevation is very limited and there may have been a previous opening in this location. I am not satisfied, therefore, that bricking up this opening would not be excessive. I shall delete (xiii).
35. Requirements (xvi) and (xviii) are seeking the replacement of four uPVC windows and a door on the north elevation with white painted timber. There is no information on the type, if any, of windows or door in place at the time of listing. The Council had made its best guess as to what would have been there previously but, given the lack of evidence, there is still a significant element of conjecture. I am not satisfied that the required works would not be excessive and may even amount to betterment. Consequently, requirements (xvi) and (xviii) should be deleted.
36. Requirement (xvii) seeks the removal of the plastic moulded alcove insert, which has already taken place. This element of the allegation is not excessive, as the feature is evidently domestic. However, the requirement to dry line and replaster the wall is excessive as it is unlikely that this would reflect the previous condition of the wall within a former agricultural building. I shall, therefore, vary the requirement to delete the last sentence.
37. Requirements (xxi) and (xxii) require the removal of ornate plasterwork and making good. Again, this detail is a domestic feature, and the required works are not excessive.
38. Requirement (xxiii) relates to the partition behind the door of the carriage building. The removal of this partition is justified and not excessive to restore the building, as it is highly unlikely that the doorway would have been blocked off when in its former state. I shall uphold the requirement.
39. Requirement (xxiv) concerns three rooflights on the rear facing roof plane. Although not shown on the elevation drawings, it is probable that these are associated with the works carried out pursuant to the 1995 permissions, given their positions. However, the aerial photograph indicates that there were roof vents that existed prior to listing, albeit on the front facing roof plane. It is not clear whether there were any similar features on the rear at the time of listing. Consequently, the reinstatement of the roof is based on conjecture, and I consider it to be excessive. The requirement (xxiv) should be deleted, therefore.
40. I am satisfied that the notice can be varied as set out above without injustice, because I have found those requirements to be excessive. The ground (g) appeals succeed to this extent. There is a consequent need to delete the requirement specific compliance periods as set out in paragraph 6 of the notice.

The ground (h) appeals

41. The ground (h) appeals are that the compliance period falls short of what should reasonably be allowed. The appellants are seeking an extended period to enable resolution of the matters through applications for planning permission and listed building consent.
42. The deletion of some of the requirements leaves the corresponding allegations without remedy in the listed building enforcement notice. Any breaches mentioned in the allegation of a notice but not covered in the requirements do not attract deemed listed building consent. The appropriate way forward is through the application process, given the need to avoid conjectural reconstruction through enforcement.
43. I appreciate it may take some time to secure appropriate contractors and the relevant permissions. Consequently, I will vary the notice to extend the compliance period. I am satisfied that 18 months is reasonable and proportionate in the circumstances.

Conclusion

44. For the reasons given above I conclude that the appeal should succeed, in part, on grounds (b), (g) and (h). I shall uphold the enforcement notice with corrections and variations.

Formal Decisions - Appeals A and B

45. It is directed that the listed building enforcement notice be corrected by:
 - a) Delete allegation (i) in its entirety.
 - b) Delete requirements (xv) and (xxvi).
 - c) Delete the word "double" before "glazed" in paragraph 3(b) and delete the word "double" before "glazed" in paragraph 5(i) of the notice.
 - d) Delete allegation (q) in its entirety and replace with "The unlawful installation of a concrete window sill under the central window opening at the first floor of the front (west) elevation".
 - e) Delete requirement (xix).

And varied by:

- f) Delete allegations (a) and (r) and the corresponding requirements (ii) and (xx), due to success on ground (b).
- g) Delete requirement (v)/(vi) in its entirety and replace with a new requirement (v) "Reinstate the loft door opening and loft door in the central gable at first floor shown at H on Plan 7 attached to this Notice. The loft door is to be set in a 100mm reveal and is to be fabricated using vertical timber boards to match the timber doors on the ground floor northern elevation. Replace the concrete sill with a stone cill of similar size".
- h) Delete the following words from requirement (vii) "The overall size of the opening is to be increased in depth by 10 courses of brickwork below the existing opening".

- i) Delete requirements (viii), (ix) and (xxv) in their entirety.
- j) Delete requirements (x) and (xi) in their entirety.
- k) Delete requirement (xiii) in its entirety.
- l) Delete requirements (xvi) and (xviii) in their entirety.
- m) Delete the following words "Install dry lining to match existing and re-plaster the wall to be flush with the existing wall" in paragraph 5(xvii) of the notice.
- n) Delete (xxiv) in its entirety.
- o) Delete paragraph 6 in its entirety and replace with a single compliance period of 18 months.

46. Subject to these corrections and variations, the appeals are dismissed, and the listed building enforcement notice is upheld.

D Moore

INSPECTOR