



Appeal Decision

Site visit made on 31 May 2024

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 12th July 2024

Appeal Ref: APP/B3030/F/23/3334931

10 Market Place, Newark-On-Trent, Nottinghamshire NG24 1DU

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Oliver Owen against a listed building enforcement notice issued by Newark and Sherwood District Council.
 - The listed building enforcement notice is dated 1 December 2023.
 - The contravention of listed building control alleged in the notice is: Without listed building consent, the fixing of security boarding to the ground floor windows and doors, as shown on Images 1 and 2 attached to the notice.
 - The requirements of the notice are: A) Remove all timber boarding to the ground floor windows and doors. B) Make good any holes in any timber caused by the works identified in Section 5, by applying resin to the holes and painting these areas in the same colour as the existing joinery.
 - The period for compliance with the requirements is: Two months.
 - The appeal is made on the grounds set out in section 39(1)(d) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

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

Ground (d)

2. Ground (d) is that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary. Each of these elements is a matter of fact and degree.
3. The appeal site at No 10 is a grade II listed two-storey building occupying a prominent corner at the north of the town centre market place. It dates from the 1830s with late 20th century alterations. The premises was formally a subscription library, then a shop, and has since been converted for use as a public house. The unauthorised works comprise the boarding over of all windows and doors on the ground floor of the building.
4. The building was vacated, which prompted the installation of the boarding. The appellant explains that, due to the nature of the building and its prominence, it was at a higher risk of vulnerability to vandalism or attack, and/or forced entry and potential unauthorised occupation. Such threats could be anything from petty vandalism to broken windows and graffiti, through to the potential risk of

arson. Within the site itself there are also areas which could pose a potential risk of injury to anybody entering the building, such as the cellar. The landlord's insurance requirements included an obligation to take all necessary steps to protect the building from intrusion or vandalism.

5. The appellant was concerned that there had been a recorded spate of arson attacks against vacant pub buildings, the most newsworthy being the Crooked House, but others were also recorded. He explains that the boarding was intended as a short-term solution to mitigate the identified risks. He confirms that the landlord has offered to allow the Council to paint the boarding in a colour of their choosing in order to improve its appearance whilst efforts are made to get the unit reoccupied.
6. Whilst I acknowledge all these concerns, and the requirement to keep the structure safe from harm, there is little evidence of direct threat to this particular building. The Crooked House is in a different part of the country, in Staffordshire, and there is little evidence that the circumstances surrounding it are directly parallel to the case before me. The appellant does not identify the locations of the other arson attacks referred to, which limits the weight I can afford them.
7. The Council point out that there are a number of vacant commercial premises within the town centre, most notably the grade II* White Hart building in the south-east corner of the market place, which has been vacant for some time and has not been subject to heritage crime. The appellant does not dispute this element of the Council's case.
8. On my visit, I saw that the boarding is in very good condition. There is little evidence that attempts have been made to attack or harm the building since the autumn of 2023, when the unauthorised work was carried out. The Council argue that the appellant has not explained whether less visually intrusive steps to secure the building, such as improved locking mechanisms or alarm systems, were explored.
9. I am satisfied that the boarding harms the character and appearance of the listed building, obscuring the majority of the ground floor, and introducing a visual element that detracts from the significance of the heritage asset and its surroundings. The painting of the boarding would not, in my view, be sufficient to make its appearance acceptable. Returning then to the three tests to be met under ground (d), I accept that there was an urgent need to secure the vacant building following the departure of the tenant. The first test is therefore met.
10. The boarding may well be described as a temporary solution, but the appellant has not provided any timescale whereby he expects the legal issues to be resolved and the building reoccupied. The unauthorised works might therefore remain in place indefinitely, causing ongoing harm to the character and appearance of the listed building. The appellant has therefore failed to show that the second test has been met.
11. Finally, there is little evidence that the boarding represents the minimum measures that were immediately necessary for the preservation of the building. I agree with the Council that other less visually harmful measures could have been explored, and there is little indication that the building is in a high risk location. The third test therefore has not been met.

Conclusion

12. In summation, it is necessary for all three tests to be met for an appeal on ground (d) to succeed. For the reasons given, I find that two of the three tests have not been met.
13. On that basis, the appeal is dismissed and the listed building enforcement notice is upheld.

Elaine Gray

INSPECTOR