



Appeal Decision

Site visit made on 26 February 2025

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

Appeal Ref: APP/R3325/F/24/3342095

2A and 2B Abbey Mews, Abbey Street, CREWKERNE, TA18 7HY

- The appeal is made under section 39 of the Planning (Listed Building and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Greg Pascoe against a listed building enforcement notice issued by Somerset Council.
- The enforcement notice was issued on 6 March 2024.
- The contravention of listed building control as alleged in the notice is without planning permission or listed building consent the removal and replacement of roof tiles, rainwater goods, external windows, external doors and internal doors.
- The requirements of the notice are:
 - 1) Reinstate the roof tiles with a plain clay tile roof
 - 2) Reinstatement of single glazed flush fitting timber windows with leaded lights on all windows as illustrated by the Google Maps images and photograph (shown as annex A to this notice) and keep in situ.
 - 3) Replace any external UPVC doors with wooden doors
 - 4) Replace internal doors with four panel timber doors.
 - 5) Replace rainwater goods with painted cast metal.
 - 6) Details are to be submitted to the Local Planning Authority in relation to requirements 1-4 for approval and implemented within six (6) months from the date that the details are approved.
- The periods for compliance are:
 - 1) Eighteen (18) months from the date that the notice takes effect.
 - 2) Eighteen (18) months from the date that the notice takes effect
 - 3) Twelve (12) months from the date that the notice takes effect.
 - 4) Twelve (12) months from the date that the notice takes effect.
 - 5) Eighteen (18) months from the date that the notice takes effect.
 - 6) Four (4) months from the date that the notice takes effect.
- The appeal is made on the grounds set out in section 39(1) (d), (e), (g) and (i) of the Planning (Listed Building and Conservation Areas) Act 1990 as amended 1991

Decision

1. The appeal is allowed insofar as it relates to the replacement of the roof; the replacement of the windows facing the inner courtyard; the external uPVC doors; the internal doors; and the rainwater goods on the inner courtyard and listed building consent is granted for the retention of the roof; the replacement of the windows facing the inner courtyard; the external uPVC doors; the internal doors; and, the rainwater goods on the inner courtyard.
2. It is directed that the listed building enforcement notice be varied by the deletion of requirements (1) to (6) of the notice and replaced with the following requirements:

- 1) Reinstatement of single glazed flush fitting timber windows with leaded lights on the ground and first floor of the Abbey Street elevation.
- 2) Replace rainwater goods with painted cast metal on the Abbey Street and Swan Neck Court elevations.
- 3) Details are to be submitted in writing to the Local Planning Authority in relation to requirements 1 and 2 for approval.

And be further varied by the deletion of the periods for compliance numbered (1)-(6) of the notice and replaced with the following periods of compliance:

- 1) Eighteen months from the date that the notice takes effect.
 - 2) Eighteen months from the date that the notice takes effect.
 - 3) Four months from the date that the notice takes effect.
3. The appeal is dismissed and the listed building enforcement notice is upheld as varied, insofar as it relates to the ground and first floor windows in the Abbey Street elevation and the rainwater goods on the elevations to Abbey Street and to Swan Neck Court and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Preliminary Matters

4. The appeal form signed by the appellant clearly indicates that the appeal is made on grounds (a), (d) and (g). However, the statement of case submitted by the appellant's agent refers also to the inclusion of grounds (b), (c), (e) and (i). It was subsequently confirmed that the grounds of appeal are (d), (e), (g) and (i). The Council has had the opportunity to comment on these additional grounds of appeal and I have considered them all below.
5. Section 16(2) imposes a duty in considering whether to grant listed building consent to have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses. Section 66(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

The site and relevant planning history

6. The appeal building was listed grade II in 1974 under the address of 1 Abbey Street which is in Crewkerne town centre and within a conservation area.
7. The listing description for 1 Abbey Street is set out below:

"Shop. Mid C19 with C17 or C18 rear wing. MATERIALS: limestone rubble with Ham Hill stone quoins and voussoirs to the front; slate roof, half-hipped to front-right, with one brick stack to centre of ridge of rear wing. PLAN: obtuse-angled L-shape plan. EXTERIOR: 2 storeys. 3-window range to the front; 2 storeys with attic in central gable of rear right wing, 4-window range. The Market Street facade, facing west, has late C19, 2/2 sashes to the first floor, and a mid C19 double shopfront, stepped forward, with 4 panes to each side under a simple fascia with a moulded cornice. The long right return, on Abbey Street, has 3 phases. The side of the C19 shop, which has a 2-light casement under the eaves of the half-hipped roof: a c1700 range, gabled to the street, with stone coping and a late C19 2/2 sash under a wooden lintel to each floor, and a smaller one in the apex. This range has a central ridge stack. The stepped-forward rear range, possibly older, is parallel to Abbey

Street with a plain tile roof. All windows are C20, mostly casements under wooden lintels, those to the far right are horizontal, with 3-lights. INTERIOR not inspected. SUBSIDIARY FEATURES: the first 2 ranges of the right return, in Abbey Street, have a narrow area enclosed by a low Ham Hill stone plinth with spearhead railings and a gate to the rear."

8. The Council refers to applications for listed building consent for 1 Abbey Street which were approved with conditions in 1990 (90/900747) and subsequently (with alterations to the approved drawings) in 1994 (93/00649) for the partial demolition, partial conversion and rebuilding and incorporation of a new roof to form two flats. These applications show that Abbey Mews was once part of 1 Abbey Street.
9. The officer report of a 1990 regularisation application (902155) referred to works to the building being carried out not in accordance with approved plans of a 1989 consent for conversion to two flats. Reference is made to the removal of internal walls and the roof and that original windows to the roadside elevation had been removed. The consent required the roof to be replaced with stone tiles and plain clay tiles. The officer report indicated that the integrity of the building had been so eroded that it was questionable whether the building should be de-listed. Conditions required the submission and approval of details regarding fascia boards, guttering, windows, roof covering and external finishes.
10. The appellant refers to consent 932579 approved in January 1994 for the partial demolition, partial conversion, and rebuilding and incorporation of new roof to form two flats. Consent was granted subject to conditions regarding compliance with amended plans, treatment of external walls, courtyard surfacing and time for completion. Copies of the approved amended plans have not been submitted by the parties, Letters from the case officer dated 13 and 22 July 1994 states that the front and courtyard elevations of the property appear to comply with the listed building consent.
11. The Council has set out in some detail their enforcement investigations following a complaint that the roof tiles had been replaced with modern slate tiles. The Council originally determined that Abbey Mews was not listed and there had been no breach of planning control. Following a further complaint regarding the tiles, the Council determined that as Abbey Mews was physically attached to 1 Abbey Street. It was within its curtilage and therefore had the same protection as a listed building. Following contact with the appellant in August 2022, Mr Pascoe indicated that he had owned the property (with Claire de la Motte) for two and a half years and would not have purchased it had he known it was listed. His solicitor made inquiries with the Council who confirmed the property was not listed.
12. The appellant states that he has carried out works to 2a and 2b Abbey Mews in good faith, relying on information in the auction house legal pack and the seller's information pack, that the building was not included in the listing for 1 Abbey Street. In 2022, the Conservation Officer was of the view that there was no indication that the works were deliberately undertaken in the knowledge that the building was listed. The Officer reported at the time that the building had been largely re-ordered to such an extent that the building no longer contains any architectural or historic interest other than providing evidence of the former building as an adjunct to the frontage building.
13. The appellant states that the only breach of control that he carried out was the works to the roof and that all other works were carried out prior to his purchase.

Whilst this may have been the case, responsibility for any breach of control rests with the current owner of a listed property.

The appeal on ground (d)

14. An appeal on this ground is that the works to the building were urgently necessary in the interest 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 works carried out were limited to the minimum measures immediately necessary.
15. It is acknowledged that when the appellant acquired the building it was in a poor state of repair. The appellant describes it as being derelict in 1993/94 and the situation worsened in the 30 years prior to the appellant's acquisition, with the property not having been inhabited for the last four years. It is claimed that the building has only survived through the undertaking of urgent repairs and by improving the building to modern habitable standards. Whilst the works carried out have arrested its decline, no substantive evidence has been put forward to justify an appeal on this ground, namely that the works were urgently necessary in the interests of safety or health or the preservation of the building; and that it would have been impractical to carry out inoffensive repairs; and, that the works were limited to the minimum measures immediately necessary. The Council was not advised of any apparent urgency for the works prior to them being undertaken.
16. The appeal on this ground fails.

The appeal on ground (e)

17. An appeal on this ground is that listed building consent should be granted,
18. In respect of the roof, the listed building consent (932579) in 1994 incorporated a new roof but there does not appear to be an indication of the replacement roof materials or condition requesting the submission of samples. Nevertheless, the 1990 consent explicitly conditioned the roofing materials. The earlier roof material comprised brown/orange pantiles but clearly deteriorated significantly.
19. The appellant installed the replacement roof is of grey slate on the basis of roofing materials elsewhere in the conservation area which are generally of slate and clay tiles. Whilst the installation of a different roofing material affects the appearance of the building, it does not harm its preservation or its setting or any features of special architectural or historic interest that it possesses and I note that the remainder of the listed building fronting Market Street has a slate roof. The roofing materials preserve the character and appearance of the conservation area.
20. The building has a number of uPVC leaded windows on the front elevation to Abbey Street which are of differing styles and types. UPVC windows and a door facing onto the enclosed courtyard at the rear and a uPVC door to one of the flats have also been installed. Such materials are generally not considered as suitable materials for windows and doors in listed buildings or in conservation areas due to their uniform and bland appearance. Replacement uPVC windows pose one of the greatest threats to the heritage value of historic areas. Despite industry attempts at improving the design of uPVC windows they are easily recognisable because they do match the sections, proportions and texture of historic joinery.

21. The leaded lights appear to be poor replicas that fail to respect the humble origins of this rear wing. The listing description states: *"All windows are C20, mostly casements under wooden lintels, those to the far right are horizontal, with 3-lights."* A Google street view image of 2009 shows the ground floor window adjacent to the common entrance way from the street is a double sash window without leaded lights. An elevation drawing received by South Somerset District Council submitted in 1990 for application 902155 describes the 7 windows on the front elevation but fails to identify whether these are existing or proposed. Two of the upper front windows are described as being leaded and three other windows have been drawn to suggest they are leaded but not described as such.
22. Building Control records indicate that there were replacement windows in Flat 2A in 2014/15 and a replacement door in Flat 2B in 2019.
23. The windows on the front elevation harm the historic integrity and appearance of the building, and consequently that of the conservation area. Those facing onto the courtyard are also harmful but I note that the window openings are wider than at the front and the courtyard elevations have little architectural or historic merit which would not be significantly improved if they were replaced with more sympathetically designed timber windows.
24. In respect of the external uPVC doors, there is one in the access passage and one facing the courtyard, but they are not visible from Abbey Street and their impact on the building is therefore reduced. I also note that the 1990 consent illustrates the approved replacement doors as being of modern design with some ambiguity over the construction materials.
25. So far as the internal doors are concerned, the work carried out internally to create the two flats has compromised the integrity of the building (as recognised in the 1990 officer report) to such an extent that replacing the internal doors with four panel doors would serve no purpose.
26. The appearance of the building is materially affected by the use of the current uPVC rainwater goods which I note that the appellant indicates that in order to maintain and improve the character of the conservation area, he is prepared to replace them with painted cast metal. Whilst this would be necessary for the Abbey Street and Swan Neck Court elevations, it would achieve little in the private space of the courtyard which is so poorly degraded. The two rusting Sky dishes, which are not subject to the notice, do little to assist.
27. The planning and enforcement history of the building is confusing in view of the poor and incomplete records relating to the listed building. It has been difficult to be certain over which elements of the works have been or not been accepted in the past. The fact is, however, that the building has been subject to significant internal and external alterations in the which, despite the best endeavours of the Council to take action, the outcome has left a heritage asset that has been severely compromised. In view of its history since 1990 and earlier, I see little practical purpose in upholding the notice except where the character of the building can be restored in respect of its external appearance on Abbey Street and Swan Neck Court. Accordingly I shall grant listed building consent for the alleged works with the exception of the ground and first floor windows on the Abbey Street elevation and the uPVC rainwater goods on that and the Swan Neck Court elevations.
28. In reaching this decision, whilst I have some sympathy with the appellant being placed in a difficult position due to incorrect advice on the listing of the property, the

current owner has to bear the consequences of any unlawful activity of previous owners.

29. The appeal on this ground succeeds in part.

The appeal on ground (i)

30. An appeal on this ground is that the steps for restoring the character of the building to its former state would not serve any purpose.

31. I have identified the harm caused to the building and its setting and to the character or appearance of a conservation area. The steps in respect of the replacement of the windows on the Abbey Street elevation and to the rainwater goods will help to alleviate the harm caused.

32. The appeal on this ground fails.

The appeal on ground (g)

33. An appeal on this ground is that except in relation to such a requirement in Section 38(2) (b) or (c) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.

34. An objective assessment is required to establish whether the works required restore the building to its previous state.

35. I have set out above that the outstanding matters relate to the windows and the rainwater goods.

36. The appellant raises issue with the need to replace all windows with alternative windows that were not evident as being present in the building and are steps for restoring the character of the building to its former state which would not serve the purpose. However, it is the state of the building at the time of listing, which was 1974, that is relevant. There is no evidence to indicate that any of the windows were not traditional timber windows at that time. Therefore the replacement of the windows on the Abbey Street elevation do not exceed what is necessary to restore the building its condition before the unauthorised works were carried out.

37. Similar comments are relevant to the rainwater goods.

38. The appeal on this ground fails.

Conclusion

39. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant listed building consent for one part of the matter the subject of the notice, but otherwise I will uphold the listed building enforcement notice with variations and refuse to grant listed building consent on the other part.

P N Jarratt

INSPECTOR