



Appeal Decision

Site visit made on 6 January 2025

by **J Moss BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Appeal Ref: APP/B1930/F/23/3328072

Thai Square, 26A to 28 George Street, St Albans AL3 4ES

- 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 D Danouse against a listed building enforcement notice issued by St Albans City and District Council.
 - The enforcement notice was issued on 11 July 2023.
 - The contravention of listed building control alleged in the notice is: The installation of air conditioning and heating units and associated servicing and metal structural supports onto the Grade II* listed building. The units and associated servicing and metal supports have numerous fixings into the historic fabric of the building including the C15 timber frame and wattle and daub panels.
 - The requirements of the notice are to:
 - i. Remove condenser units and associated servicing in the rear yard.
 - ii. Remove the air conditioning units, associated servicing and wall heaters to the first floor and all of the metal cable trays and cassettes and associated fixings and supports to the first floor.
 - iii. Make good any damage to the Building to match the existing original work adjacent, undisturbed by the unauthorised works, in respect of materials used, detailed execution and finished appearance.
 - iv. Remove from the land (as per site plan in this report and outlined in red, located in appendix 1) all rubble and building materials arising as a result of compliance with step (i), (ii), and (iii) above.
 - The period for compliance with the requirements is 28 days from the date the notice takes effect.
 - The appeal is made on the grounds set out in section 39(1)(h) and (j) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Summary Decision: the notice is quashed.

Reasons

1. Before considering the grounds of appeal, I have a duty to put the notice in order, if necessary. The powers transferred to Inspectors under section 41(1)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 1990 Act) include to correct any defect, error or misdescription in the listed building enforcement notice or, under section 41(1)(b), to vary the terms of the listed building enforcement notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.

2. Section 5 of the notice confirms that its purpose is to restore the building to its former state. Section 32(2)(a) of the 1990 Act informs 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 for restoring the building to its former state. I wrote to the parties setting out my concerns that the notice does not comply with this section of the 1990 Act in that it does not inform the recipient with reasonable certainty what the breach of listed building control is and what must be done to remedy it. In reaching my decision in this case, I have had regard to the representations of each party submitted in response to my note.
3. At the site visit I noted several square shaped units at first floor, attached to and suspended from the timber frame within the roof structure. Running between each unit I saw suspended perforated metal trays that carried wiring and associated servicing. There was also extensive metal framework supporting the trays and units. All of this appeared only to be attached to the timber frame. The appellant has confirmed that the square shaped units are for cooling and heating.
4. The description in the allegation of 'air conditioning and heating units and associated servicing and metal structural supports' broadly fits with the above, and the appellant has also understood that the notice targets this equipment and associated cabling etc. However, the Council say that the notice targets more than this.
5. Also attached to the timber frame at first floor I saw a number of smaller, mainly white units that appeared to be for heating and (possibly) for cooling. Elsewhere on both the ground and first floor I also saw a number of floor mounted units. The Council say that the notice was also intended to target the white units mounted on the timber frame. As for the floor mounted units, the Council's response to my note does not make it clear whether or not the notice was intended to target these, although it does add that it does not know when these were installed.
6. In response to my note, the appellant is clear, that he did not understand the notice to target either the white units mounted on the timber frame, or the floor mounted units. I have some sympathy with this. The allegation describes units as having 'associated servicing and metal structures'. Unlike the very obvious servicing and metal structures running between the suspended units, neither the white units nor the floor mounted units had any obvious servicing associated with them.
7. Furthermore, requirement ii. of schedule 2 calls for the removal of 'wall heaters'. The white units might fit the description of a wall heater, particularly as these are attached to the timbers in the wall at first floor, rather than being suspended. However, 'wall heaters' are not specifically mentioned in the allegation.
8. In the yard to the rear of the building I saw two large free standing units in an enclosed area. Running from these units I saw cladded services (possibly pipes and wiring), which was attached to the rear wall of a timber covered area in the rear yard. These cladded services were also attached to the rear elevation of the building, running from ground floor level and entering the building close to the eaves of the roof.
9. The notice requires the removal of 'condenser units and associated servicing in the rear yard'. This description might well fit with the units and services I refer to above. However, these works are not in the allegation, they are only referred to in

the requirements. Indeed, in answer to the questions in my note about what the notice was intended to target, the Council refer to the notice's requirements, rather than the allegation, that it says refer to the items I ask about.

10. Where it appears to the local planning authority that works have been executed to a listed building, and the works are such as to involve a contravention of section 9(1) or (2) of the 1990 Act¹, for a notice to be valid those works must be specified, with the necessary degree of precision and clarity, **in the allegation**. It is the allegation that tells the recipient of a notice what has been done wrong. The requirements then tell the recipient what must be done to remedy it. The requirements of the notice must be consistent with the allegation. The recipient of a notice cannot be reasonably certain that works are the target of the notice when the works are only mentioned in the requirements and not in the allegation.
11. As with the wall heaters and the free standing units, the appellant says that he did not understand the units in the rear yard and the associated services, including those attached to the external wall of the building, to be the target of the notice. Again, I have some sympathy with the appellant on this, for the reasons given above.
12. All things considered, I can only conclude that the recipient of the notice subject of this appeal would not be reasonably certain of what they have done wrong. It is open to me to correct the notice to specify with more certainty the works that are the intended target of the notice, including the white units mounted on the timber frame, the floor mounted units and the units and associated services to the rear of the building. However, were I to do so, I have little doubt that injustice would be caused to the appellant.
13. As I have already mentioned above, in view of the defects I have identified in the notice, the appellant clearly did not understand that certain works were the target of the notice. He has said that he is of the view that certain of these works do not require listed building consent. Such a case would be made under an appeal on ground (c)², which has not been made in this case. Indeed, had the notice been more precise, it is likely that the appellant would have approached his appeal in a different way or made the appeal on other grounds.
14. I have considered whether I am able to correct the notice so that it would only target certain elements of the works that the appellant has addressed in his case. The suspended units, for example. However, it is apparent from the appellant's evidence that these are part of a complete system and are not easily divorced from the other works I saw on site and have been referred to by the Council. Furthermore, the purpose of the notice is to restore the building to its former state. The notice would not achieve this purpose, were I to correct it to only refer to some elements of the works that are the intended target of the notice. This would cause injustice to the Council.
15. I have considered the corrections suggested by the Council. As these are to the requirements of the notice only, rather than to the allegations, they do not overcome the defects I have identified.

¹ Section 38(1) of the 1990 Act.

² Section 39(1)(c) of the 1990 Act.

16. For the reasons given above, I find the notice to be defective and I am unable to correct it without causing injustice to the appellant or the Council. The notice will, therefore, be quashed. In finding as such, I am mindful that it would be open to the Council to issue a further listed building enforcement notice, should it be considered expedient to do so.

Conclusion

17. I conclude that the listed building enforcement notice does not specify with sufficient clarity the alleged contravention of listed building control. I have considered whether it is open to me to correct the errors in accordance with my powers under section 41(2) of the 1990 Act, but these powers do not extend to repairing fundamental defects, and any such corrections would cause injustice to the appellant and the local planning authority. As the notice is invalid, it will be quashed. In these circumstances the appeal under the grounds (h) and (j) set out in section 39(1) of the 1990 Act do not fall to be considered.

Formal Decision

18. The listed building enforcement notice is quashed.

J Moss

INSPECTOR