



Appeal Decision

Site visit made on 15 December 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 8th January 2026

Appeal Ref: APP/A1910/F/24/3352829

16 High Street, HEMEL HEMPSTEAD, HP1 3AE

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
- The appeal is made by Mr Babubhai Patel against a listed building enforcement notice issued by Dacorum Borough Council
- The enforcement notice was issued on 21 August 2024
- The contravention of listed building control alleged in the notice is: without listed building consent attaching an illuminated advertising fascia, an illuminated projecting sign on the principal and side elevation. The painting of the side and principal elevation brickwork and window frames. The installation of an extraction flue and a refrigeration/conditioning unit on the side elevation. The installation of an extraction flue on the rear elevation and the installation of an extraction system through the fabric of the Listed Building.
- The requirements of the notice are:
 - 1 – Remove the unauthorised projected illuminated sign which sits perpendicular to the road that is attached to the listed building including any cabling serving the illumination.
 - 2 – Remove the brackets associated with the projecting sign.
 - 3 – Repair any holes associated with steps 1-2 above using lime mortar and finish with top coat of white breathable exterior paint to match the existing.
 - 4 – Remove the illuminated advertising including any backing board from the Fascia board above the ground floor window on the Principal and Side elevation of the property.
 - 5 – Remove the unauthorised fascia hardboard from above the ground floor window on the Principal and Side elevation of the property.
 - 6 – Remove any wiring in relation to the illumination of the advertising above the ground floor window on the Principal and Side elevation of the property.
 - 7 – Repair any holes associated with steps 4-6 above.
 - 8 – Repaint the red brickwork and window frames on the front and side elevation in black.
 - 9 – Remove the refrigeration/conditioning unit that has been fitted to the side elevation.
 - 10 – Remove the brackets associated with the refrigeration/conditioning unit that has been fitted to the side elevation.
 - 11 – Remove any wiring associated with the refrigeration/conditioning unit that has been fitted to the side elevation.
 - 12 – Repair any holes associated with steps 9-11 above using lime mortar and finish with top coat of white breathable exterior paint to match the existing.
 - 13 – Remove the extraction flue which has been fitted to the side elevation.
 - 14 – Remove any concrete that has been used to fill this hole using hand tools.
 - 15 – Repair the hole associated with steps 13-14 above using bricks to match the existing in colour and size and using lime mortar. Finish with top coat of white breathable exterior paint to match the existing.
 - 16 – Remove the extraction flue which has been fitted to the rear elevation.
 - 17 – Remove any infill materials that has been used to fill this hole using hand tools.

18 – Repair the hole associated with steps 16-17 above using bricks to match the existing in colour and size and using lime mortar. Finish with render to match the existing area at the rear of the property. Finish with a top coat of white breathable exterior paint to match the existing.

19 – Remove the extraction flue which has been fitted through the listed building.

20 – Repair the damage to first floor flooring associated with the extraction flue to match existing.

21 – Repair the damage to the roof associated with the extraction flue to match existing.

22 – Remove all materials from the site arising from the works to comply with steps 1-21 above.

- The period for compliance with the requirements is 12 months.
 - The appeal is made on the grounds set out in section 39(1) (b) and (e) 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. 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

2. The notice covers a number of issues at Zest (16 High Street). The appellant says that he has already carried out steps 1-12 which refer to the projecting sign, the illuminated fascia, the painted brickwork and the refrigeration unit on the side elevation. However, the Council point out the fascia is still there, the screw holes for the projecting sign haven't been filled and the brickwork is still bright red.
3. Regardless, all the matters alleged were clearly in place when the notice was issued and the appellant accepts the need to deal with those matters listed above. He states he is going to apply for a new frontage and can sort out what the colour should be then, but that still leaves the question of the suitability of the existing colour before me along with the two flue systems.

The Appeal on Ground (b)/(c)

4. Ground (b) is that the matters alleged have not occurred. This relates to the two flues, which the appellant argues have been in place since the 1970s, so before the building was listed. Technically this is actually a ground (c) appeal, that there has been no contravention of the Act as the flues were part of the listing, and I shall deal with it as such.
5. There is a side flue that vents into the side passage from the hot water boiler and a much larger flue that deals with extraction from the kitchen and vents through the roof. The appellant argues the flues have always been there. The building has been a take-away for many years. He bought it in 1976, before it was listed, and the flues were in place then. The evidence for this is that as it had always been a take-away, it always needed flues. There is no sign of any other exits through the walls or roof so these flues must have been in place then. Anyway, he remembers the flues being there in 1976.
6. The building was listed in February 1977 and there is no mention of a flue on the side wall, but that is not necessarily decisive. The current flues are clearly modern, but the appellant contends that is just because various components have

been replaced over the years. However, it is surprising that there is no evidence at all in terms of documentation for the existence of the flues over the last nearly 50 years. Of particular concern however, is that the flue that vents through the roof has been directed through the middle of the kitchen in the flat above. This is a modest room which has a large metal tube dog-legging through it and out of the ceiling which renders the kitchen almost unusable. I find it hard to believe this has been the situation for nearly 50 years. Given the lack of any evidence I find that on the balance of probabilities the flues were not in place before the building was listed.

The Appeal on ground (e)

7. This ground is that listed building consent should be granted for the matters alleged. Both flues cut through the wall or roof of the building and the main, kitchen flue cuts through the floor and ceiling of the flat above, leading to a loss of historic fabric. The modern extraction systems clearly harm the significance of the listed building, which lies primarily in its front and side façades. It stands on the corner of the wide entrance to Old Hemel Hempstead High Street and so is in a prominent location. This enhances its significance. I accept the kitchen and the boiler need to be served by an extraction system but there is no evidence that the current arrangements are the only ones possible.
8. The colour of the building has indeed changed over the years. It has been black and a muted burgundy and, when it was 'Kebab Point' the window frames were much brighter red, rather like they are now. But the current impact of the colour is heightened by the rest of the frontage and the fascia all sharing the same bright red colour. This clearly overwhelms the street scene and the façade of the building itself, harming its significance. I agree, the appellant needs to negotiate a new frontage colour and fascia with the Council. The period for compliance is generous 12 months which gives plenty of time to sort this out. In the meantime there is no reason why black would not be an appropriate colour and that is a reasonable back-stop to ensure there will definitely be change.
9. For the reasons above I consider the various matters alleged have affected the special architectural or historic interest of the listed building. In terms of the NPPF there has been less than substantial harm and there are no public benefits to outweigh that harm. I shall therefore dismiss the appeal and uphold the notice.

Simon Hand

INSPECTOR