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## Appeal Decisions

Site visit made on 10 February 2026

by **Elizabeth Pleasant BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date 12 March 2026

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### **Appeal A Ref: APP/W4223/C/24/3351664**

#### **Land at 13 Queens Road, OLDHAM, OL8 2AX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Kamran Azam against an enforcement notice issued by Oldham Metropolitan Borough Council.
- The notice was issued on 8 August 2024.
- The breach of planning control as alleged in the notice is: Without planning permission or listed building consent, the erection of a single storey rear extension to the Grade 2 Listed Building on the Land.
- The requirements of the notice are:
  - a) Prior to undertaking any works described in paragraph 5(b) of this notice, a Method Statement setting out how such works will be undertaken to prevent further harm to the historical significance of the building must first be submitted to and approved in writing by the Council.
  - b) Permanently remove the single storey rear extension from the Land and reinstate the original elevational wall, doorway and window openings with the original windows, or replace with a similar window design and white timber frame, in full accordance with the approved Method Statement required by paragraph 5(a) of this notice.
- The periods for compliance with the requirements are: 5.a) three months and 5.b) six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary Decision: No further action is taken.**

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### **Appeal B Ref: APP/W4223/F/24/3351665**

#### **Land at 13 Queens Road, OLDHAM, OL8 2AX**

- 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, 1990.
- The appeal is made by Mr Kamran Azam against a listed building enforcement notice issued by Oldham Metropolitan Borough Council.
- The listed building enforcement notice was issued on 8 August 2024.
- The contraventions of listed building control alleged in the notice are:

##### **Ground Floor**

- - Damage to tiled, mosaic floor in hallway.
- - Ceiling details in hallway and living room removed.
- - Skirting boards in all rooms removed.
- - Flooring ripped up.
- - Internal wooden doors removed.
- - Chimney breast and historic fireplaces removed in living room and dining room.
- - Removal of rear elevation wall to facilitate unauthorised single storey rear extension.
- - Removal of historic windows and timber wooden frames in kitchen and dining room.

##### **First Floor**

- - Skirting boards removed in all rooms.
- - Flooring in all removed.
- - Original windows and frames removed on rear extension.
- - Internal wooden doors removed.
- - Chimney breast and historic fireplace removed in master bedroom.

### **Second Floor**

- - Room subdivided into four separate rooms.
- - 2x skylights put in roof of front elevation.
- The requirements of the notice are to:
  - Prior to undertaking any works described in paragraph 5 of this Notice, a Method Statement setting out how such works will be undertaken to prevent further harm to the historical significant of the Building must first be submitted to and approved in writing by the Council.

### **Ground Floor**

- Repair any cracks by replacing with a similar material and clean the mosaic hallway floor on the ground floor to its original setting.
- Re-instate the chimney breast in the lounge and dining room of the ground floor.
- Replace the ceiling skirting in the lounge and dining room. New coricing and boards introduced should match what was historically in situ as per the photographs attached as an Appendix to this notice.
- All internal doors should be retained originals which are traditional wooded oak. If this is not possible, replicas of the original doors are to be installed to the same timber profile finish.
- Remove the rear single storey extension from the Building and re-instate the original elevational walls with the same original window feature and white timber frame and rear door features in place before the removal of the wall. A matching brick, such as reclaimed brick should be used and the mortar colour and type should be replicated in order to create a seamless appearance between the upper floor and the ground floor. A matching stone should also be sourced for the plinth and window cill and the arched vertical brick headers should be reintroduced.

### **First Floor**

- Remove the UPVC window frames on the 2x first floor rear elevation windows and replace with timber framing similar to the window frames on the front elevation, that being two-over-two timber sliding sash window frames to replicate what is on the front elevation.
- Re-instate the chimney breast in the master bedroom.
- All internal doors should be retained originals which are traditional wooden oak. If that is not possible, replicas of the original doors are to be installed to the same timber profile finish.

### **Second Floor**

- All internal doors should be retained originals which are traditional wooden oak. If that is not possible, replicas of the original doors are to be installed to the same timber profile finish.
  - The period for compliance with the requirements are:
    - a) The Methodology Statement specified in paragraph 5.2 should be submitted to the Council for approval within three months from when this notice takes effect.
    - b) The remaining actions specified in paragraph 5, i.e. in relation to the Ground Floor, First Floor and Second Floor, must be carried out within six months from when this Notice takes effect.
- The appeal is made on the grounds set out in section 39(1) (e) (g) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

**Summary Decision: No further action is taken.**

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## **Appeal A**

### **The Enforcement Notice**

1. S173(1) (a) of the Town and Country Planning Act, 1990, as amended (the Act) requires an enforcement notice to state the matters which appear to the local planning authority to constitute the breach of planning control. S173(2) of the Act states that a notice will comply with subsection (1) (a) if it enables any person on whom a copy is served to know what those matters are.
2. S173 (3) of the Act requires an enforcement notice to specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes. S173(4) states that those purposes are: (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took

place; or (b) remedying any injury to amenity which has been caused by the breach.

3. It is established case law<sup>1</sup> that an enforcement notice must tell the recipient of the notice fairly what they have done wrong and what they must do to remedy it. An enforcement notice may therefore be null because the breach or requirements are so fundamentally vague or uncertain that the recipient does not know what he has done and how to correct it. The appropriate test is whether the notice is hopelessly ambiguous and uncertain, either as regards to the description of the breach, or the necessary remedial steps.
4. The breach of planning control is the erection of a single storey rear extension to a Grade II listed building. The requirements are:

*“5.a) Prior to undertaking any works described in paragraph 5(b) of this notice, a Method Statement setting out how such works will be undertaken to prevent further harm to the historical significance of the building must first be submitted to and approved in writing by the Council.*

*5.b) Permanently remove the single storey rear extension from the Land and reinstate the original elevational wall, doorway and window openings with the original windows, or replace with a similar window design and white timber frame, in full accordance with the approved Method Statement required by paragraph 5(a) of this notice.”*

5. Having regard to *Clive Payne v The National Assembly for Wales and Caerphilly Borough Council* [2006] EWCH 597, the requirement to submit a Method Statement for approval in writing by the Council introduces uncertainty for the appellant. On first receipt of the notice, it would not have been possible for the appellant to know what details might be approved by the Council, and consequently what they must do to comply with the notice. Furthermore, there is no mechanism through which the appellant could challenge any failure on the part of the Council to agree the details submitted, or should the appellant consider the subjective judgments made by the Council in these respects to be unreasonable or impossible to achieve.

Whilst periods for compliance with both requirement a) and b) are specified in the notice, for the reasons set out above, the notice fails to comply with section 173(3) of the Act. As found in *Clive Payne* the notice is thus bad on its face.

6. Considering the purpose of the notice is to remedy the breach of planning control, it is not necessary for a Method Statement to be submitted to remedy the breach of planning control. Thus, requirement a) could be deleted from the notice. However, the requirements set out in paragraph 5.b) are also vague. It is not clear what the Council consider to constitute the rear elevational wall, doorway and window openings on the property. From the evidence before me, the rear elevation of the property had a porch/lean-to attached to it, within which there was a door and window opening. It is not clear whether the appellant is required to reinstate the lean-to and whether it is the door and window in the porch that are required to be reinstated. The requirement for a “similar” window design is also vague, and no information is given on the details of the door to be replaced or materials to be used when reinstating the wall.

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<sup>1</sup> *Miller Mead v MHLG* [1963] JPL 151

7. The Council has suggested that the requirements could be corrected to remove the requirement for the local planning authority to approve the submitted Method Statement, and to include a requirement for the rear porch/lean-to to be reinstated. However, those corrections would not overcome my concerns about the uncertainty with the requirements, the appellant would still not know what details to submit in the Method Statement. The Council's suggested corrections would also introduce a new requirement in respect of reinstating the lean-to/porch which would be more onerous than the existing notice. Thus, there would be injustice to the appellant.

## **Conclusion**

8. For the reasons given above, I conclude that the notice is a nullity. In these circumstances, Appeal A on the grounds set out in section 174(2) (a) (f) and (g) and the application for planning permission deemed to have been made under section 177 (5) of the Act do not fall to be considered.

## **Appeal B**

### **Enforcement Notice**

9. Section 38(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended states that a listed building enforcement notice (LBEN) 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; 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 back to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.
10. The LBEN alleges numerous unauthorised works, which are set out under the headings of Ground Floor, First Floor and Second Floor in section 3 of the LBEN. The steps specified are said to be carried out for the purpose of restoring the building to its former state<sup>2</sup>.
11. Having regard to *Clive Payne v The National Assembly for Wales and Caerphilly Borough Council* [2006] EWCH 597 and my findings in relation to Appeal A, the LBEN is also bad on its face considering the requirement to submit a Method Statement for approval by the Local Planning Authority.
12. Furthermore, the following elements of the allegations and requirements are vague, unclear and ambiguous.

### **Ground Floor**

- "Damage" and works of repair to the mosaic tiled floor would not constitute works that require listed building consent.
- "Ceiling details in hallway and living room removed". It is not clear what those ceiling details are. For example, is it the cornice or/and ceiling rose, or something else? Furthermore, the corresponding requirement requires the

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<sup>2</sup> Paragraph 5.1, Listed Building Enforcement Notice.

ceiling skirting in the lounge and dining room to be replaced. What is a “ceiling skirting”? The allegation does not specify removal of ceiling details in the dining room, only the hallway and living room. There is no requirement to replace the ceiling details in the hallway?

- “Flooring ripped up”. What flooring? Did it form part of the historic fabric of the building?
- The LBEN alleges the removal of chimney breasts and historic fireplaces in the living room and dining room. There is only a requirement to reinstate the chimney breasts, not the historic fireplaces? It would not be excessive to require those fireplaces to be reinstated, the Council has photographs of them.
- The requirements in relation to reinstating the rear elevation of the building are not clear. What constitutes the rear elevation walls to be reinstated? What is the original “window feature” and “door feature”. The original rear door is within the rear lean-to/porch. It is not clear whether the original rear lean-to/porch forms part of the required rear elevation walls to be reinstated, and if so, no details are specified of its roofing materials?

### *First Floor*

- Skirting boards removed in all rooms, but no requirement for them to be replaced?
  - “Flooring ripped up”. What flooring? Did it form part of the historic fabric of the building?
  - Removal of the chimney breast and historic fireplace in the master bedroom, but only a requirement to reinstate the chimney breast?
  - The requirement to remove the UPVC window frames in the rear elevation and replace with timber framing “similar” to the window frames on the front elevation is not precise. Requiring something to be “similar” is too vague. Are the replacement windows to be double glazed or single glazed? What should the width of the glazing bars be? Does the glazing need to be leaded to match that in the front elevation windows?
13. I have considered the Council’s suggestions for how the LBEN could be amended to address concerns regarding precision<sup>3</sup>. However, those suggested amendments would not in the case of the requirement to submit a Method Statement overcome concerns in relation to uncertainty. Other suggested variations/corrections would introduce additional requirements that did not form part of the LBEN. Those additions would result in injustice to the appellant.

### **Conclusion**

14. For the reasons given above, I conclude that the notice is a nullity. In these circumstances, Appeal B on the grounds set out in section 39(1) (e) (g) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, do not fall to be considered.

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<sup>3</sup> Response to PINS queries raised on 19 February 2026, Council’s email dated 27 February 2026.

## **Formal Decisions**

### **Decision on Appeal A**

15. Since the notice is found to be a nullity, no further action will be taken in connection with the appeal. In the light of this finding the Local Planning Authority should consider reviewing the register kept under section 188 of the 1990 Act as amended.

### **Decision on Appeal B**

16. Since the notice is found to be a nullity no further action will be taken in connection with this appeal. In the light of this finding, should the Local Planning Authority have kept a record of this listed building enforcement notice on any register, they should consider reviewing it.

*Elizabeth Pleasant*

INSPECTOR