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## Appeal Decision

Site visit made on 30 December 2025

**by Thomas Shields DipURP MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 March 2026**

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**Appeal Ref: APP/Z2505/F/24/3337913**

**31 Wide Bargate, Boston, Lincolnshire PE21 6SR**

- 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 Act").
  - The appeal is made by Mr Zafran Majid (Ishak Properties Ltd) against a listed building enforcement notice issued by the Boston Borough Council.
  - The listed building enforcement notice was issued on 2 January 2024.
  - The contravention of listed building control alleged in the notice is without listed building consent, the execution of alterations and works (the Works") to the Building, namely the installation on the side, east facing elevation of the Building of two number UPVC windows, one at second floor level and one at third floor (attic) level and the installation of one solid plain door at ground level.
  - The requirements of the notice are:
    - a) Replace the UPVC windows with timber single glazed sliding sash windows that replicate in design, pattern of glazing and profile of moulding the window that is at first floor level (immediately below the UPVC second floor window).
    - b) Replace the timber plain door with a solid timber panel door in accordance with the design and specifications shown on drawing reference Idc1380-PC02 approved by listed building consent reference B/16/0046/CD1 on 09.03.2017. A copy of this drawing is appended to this notice.
    - c) Paint the external timbers, the windows, the door and the surrounds, with an appropriate external primer and white gloss finish.
    - d) Repair and redecorate with like-for-like materials any damage caused to the building by the works carried out to remove and replace the windows.
  - The period of time for compliance with the notice is 5 months.
  - The appeal is made on grounds (j) within section 39(1) of the Act.
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### Decision

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

### Preliminary matters

1. The listed building enforcement notice states it has been issued under section 38(2) of the Act. However, it omits to specify, as required, the relevant part(s) of s38(2) [either (a), (b) or (c)] to which the notice steps (requirements) are pursuant. It is important for a notice to state which is/are relevant because the available grounds of appeal against a notice at s39(1)(g), (i), (j) and (k) relate differently to each part of s38(2). As such, the recipient of a notice should be clear on what grounds are relevant in order to appropriately make their case.
2. In this case the requirements at Section 5 of the notice do not refer to *restoration* of the building to its former condition [(s38(2)(a))] which indicates to me that the requirements are for the purpose of s38(2)(b) - to alleviate the effect of the works carried out. In appealing under ground (j) the appellant has evidently interpreted the notice the same way. As such, no injustice has arisen.

## Reasons

3. The listed building, 31 Wide Bargate, was constructed in the late C18th, with later alterations, and is listed in Grade II since 1975. It was originally built as a two-bay 3 storey dwelling house in red brick with dentilled wooden eaves, pantile roof and brick coped gables and chimney stacks. At first and second floors are matching pairs of timber sash windows with bracketed cornices. Subsequent alterations include a C19th shop front with central recessed doorway, flanked either side by shop windows with plain pilasters, fascia and cornice with console brackets. The whole of the front elevation is painted.
4. While these features contribute greatly to the special architectural and historic interest of the listed building, it should be noted that the official listing description is for identification purposes only. It is not the case that parts of the building not mentioned in the official list description are not intrinsic to the special interest of the building.

### *Appeal on ground (j)*

5. For an appeal to succeed on this ground the appellant must show that the requirements of the notice exceed what is necessary to alleviate the effect of the works to the listed building.
6. With regard to the second floor uPVC window I accept that the current occupier of the building did not carry out the works. However, a listed building enforcement notice can require remedial action to be taken against unauthorised works carried out at any time since listing (1975 in this case) regardless of whoever carried out the works.
7. There is no convincing evidence before me to suggest that the second or third floor windows were previously, at the date of listing, anything other than timber single-glazed sash windows as seen in the first floor window below them. The requirement at Section 5(a) of the notice to replace these two modern double glazed uPVC units with traditional timber windows would undoubtedly alleviate the effect of the works which are harmful to the integrity of the architectural and historic character of the building. Furthermore, no alternative specification or design of window to that required by the notice is before me. As such I find that the requirement does not exceed what is necessary to alleviate the effect of the works carried out.
8. The appellant acknowledges that a more traditional style door at ground floor would be more aesthetically pleasing. I agree with that view. The solid plain finish of the installed door has no relief or other traditional features. Consequently, it does not relate well to the traditional and historic architectural features of the building and is harmful to its special interest. Also, while the appellant refers to other similar doors in the area<sup>1</sup> I am not persuaded that a design based on those would adequately alleviate the harm. The requirement at Section 5(b) of the notice does not therefore exceed what is necessary to alleviate the effect of the works carried out.
9. The appellant queries whether the painting of the timber replacement windows and door in white at requirement 5(c) is appropriate. However, no alternative colour has been proposed or justified. In the absence of such evidence to the contrary I have no reason to consider that the requirement exceeds what is necessary to alleviate

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<sup>1</sup> 23-25 Wide Bargate

the effect of the works carried out to the building. That notwithstanding, if the Council were persuaded by the appellant that an alternative colour was more appropriate the Council has its own powers to vary the notice requirement.

10. For all these reasons I conclude that the appellant has failed to show that the requirements in the notice to be taken by virtue of s38(2)(b) of the Act exceed what is necessary to alleviate the effect of the works executed to the listed building.

11. The appeal on ground (j) therefore fails.

*Thomas Shields*

INSPECTOR