



Appeal Decision

Site visit made on 27 July 2026

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2026

Appeal Ref: APP/W1905/F/25/3367820

2 Church Lane, BROXBOURNE, EN10 6JT

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act).
 - The appeal is made by Mr Ben Kirby against a listed building enforcement notice issued by Broxbourne Borough Council.
 - The enforcement notice, numbered ENF/23/0070, was issued on 27 May 2025.
 - The contravention of listed building control alleged in the notice is the installation of two UPVC windows on the front elevation of the grade 2 listed building, consisting of a single window on the ground floor and a single window on the first floor.
 - The requirements of the notices are to: (i) Remove the uPVC windows from the ground floor and the first floor from the front of the property; (ii) Remove the uPVC rear garden door; (iii) Remove the uPVC windows from the ground and first floor windows at the rear of the property; (iv) Remove the uPVC rooflight window from the extension at the rear of the property; (v) Remove the resultant debris from the land.
 - The period for compliance with the requirements is Steps (i) to (iv) 3 months; Step (v) 4 months.
 - The appeal is made on the grounds set out in section 39(1)(a), (e), (g) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The listed building enforcement notice is quashed.

Preliminary Matters

2. The first issue is that the notice does not contain a section titled “matters which appear to constitute the breach of listed building control”. However, it is clear from the first paragraph of the “Reasons” that the notice is directed against the two windows on the front façade of the building. An application to regularise the replacement of these old wooden sash windows with modern uPVC was made and then refused on 3 June 2024. The Officer’s report clearly noted the issue was the two front windows. This was appealed and refused in April 2025¹.
3. It is clear from this history and the notice before me that the Council’s concern has been the two front windows. It seems that at some point the Council realised that other windows and a door to the rear and roof of the property had also been replaced with uPVC. These windows have been smuggled into the notice under the requirements. In my view the allegation is clear and does not include these extra windows so to require their removal has exceeded the ambit of the current notice.
4. I have wide powers to correct the notice but ordinarily to widen the scope of the allegation would be to prejudice the appellant. However, in this case the appellant

¹ APP/W1905/Y/24/3351463

has made representations concerning the rear windows and to correct the notice by deleting these windows from it altogether would not seem to be in the best interests of either party, as it would just lead to the issue of another listed building enforcement notice and possibly another appeal. I also note the appellant was originally Mrs Audrey Kirby, but she has since been hospitalised and the appeal has been taken over by her son Mr Ben Kirby. This is another factor that suggests a swift and comprehensive end to these issues would be a sensible outcome.

5. Unfortunately, however, there is a second, more serious defect in the notice in that it does not require the replacement of the uPVC windows and doors, only their removal. It is thus unclear what the appellant is meant to do – does the Council require sash windows all round, or would the upper floor windows be of a different design? What should the new door look like, and what materials should be used? I am afraid these deficiencies are impossible for me to remedy and I shall have to quash the notice. However, given my suspicion above that the appellant would like a quick end to the uncertainty I shall provide my views on the merits of the appeal below. Although these are not binding they should hopefully guide the parties as to the next steps to take.

The Appeal on Grounds (a) and (g)

6. Ground (a) is that the building no longer has any special historic interest. This is in effect a request to de-list the building. Such a decision can only be made by the Secretary of State, but I can make such a recommendation. However, such recommendations are vanishingly rare and would not have been made in this case. The listing is clear; the house is listed as part of a group of early 19th century cottages each with wooden windows of varying designs. No particular argument has been put forward as to why No2 should no longer be listed other than perhaps the loss of the windows, which is what this appeal is about.
7. Ground (g) is that the requirements exceed what is necessary to restore the character of the listed building. This is generally a technical argument that the requirements such as for example using hand-made roof tiles, go beyond what is necessary. In this case the ground (g) arguments are really ground (e), that consent should be granted for the replacement of the windows and door and I shall deal with it as such.

Reasons

8. The two front uPVC windows have been exhaustively considered in the previous appeal decision where the Inspector was of the view the cottage was part of a historic range of attractive dwellings typical of the local vernacular and it retained a valuable aesthetic quality. The use of modern materials lacked the “*authenticity and artisanry of painted timber*” and the uPVC windows had eroded the historic architectural interest of the building. I have no reason to depart from these well-reasoned views.
9. The rear windows and door are a slightly different matter, as they do not present to the street and are not readily visible in public views, although they can be seen by neighbours. The lack of public visibility is not usually an argument in listed building cases as the heritage asset should be conserved for its own sake. But sometimes the rear façades of buildings have already been so altered that further minor changes do not cause any harm. However, that is not the case here. No2 does have a rear single storey lean-to extension with a catslide roof of modern

materials. This seems to extend across the back of at least the neighbouring cottage which suggests it might well pre-date the listing of the cottages in 1981, and I have no evidence that it does not form part of the listed building. The small first floor windows in the neighbours would appear to be, if not original, then wooden framed and the new uPVC windows on No2 stand out as out of place. The same is even more true of the larger rear windows beside the lean-to and the rear door, all in modern materials. The visual appeal of the cottage has been seriously undermined by the use of uPVC, which, as the previous Inspector noted, lack the authenticity and artisanry of painted timber.

10. The velux rooflight however, sits within a modern roof and there does not seem to have been any loss of traditional materials because of its insertion. This has no effect on the character of the building and in my view it could remain.

Conclusion

11. As noted above, my views on the merits of the appeal are not binding on either party, but because of the fundamental defects I shall quash the notice. It will then be for the Council to consider how best to proceed.

Simon Hand

INSPECTOR