



Appeal Decision

Site visit made on 14 July 2026

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2026

Appeal Ref: APP/A1015/F/25/3373809

Brampton House, 218 Old Hall Road, Chesterfield, S40 1HQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mrs Jayne Clark against a listed building enforcement notice issued by Chesterfield Borough Council.
 - The listed building enforcement notice was issued on 10 September 2025.
 - The contravention of listed building control alleged in the notice is unauthorised alterations to a listed building, including replacement windows and doors, removal of chimneys, alterations to eaves and verges and erection of gate.
 - The requirements of the notice are set out in Appendix 1 to this Decision Letter.
 - The periods for compliance with the requirements are set out in the requirements appended to this Decision Letter.
 - The appeal is made on the grounds set out in section 39(1)(c), (d) and (g) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. Since the listed building enforcement notice (LBEN) 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 LBEN on any register, they should consider reviewing it.

The Listed Building Enforcement Notice

2. S38(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the LBCA Act) states, in short, that a 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; or (b) to alleviate the effect of the works which were carried out without listed building consent; or (c) to achieve compliance with a listed building consent.
3. It is important that a LBEN should be clear in its s38(2) purpose, not least because it should, in turn, be clear to an appellant what specific grounds of appeal are available. Some grounds of appeal are only available to a specific LBEN purpose. However, the LBEN does not specify whether the purpose of the steps to be taken are pursuant to s38(2)(a), (b), or (c) of the LBCA Act.
4. Having regard to the nature of the individual steps, it appears that the purpose of the LBEN was intended to fall within both s38(2)(a) and (b). It is thus unlikely to have been clear to the appellant at the time of lodging her appeal what grounds would be available to her. The appeal was made under ground (g), which is applicable to purpose (a), but ground (j) would also have been available in respect of steps applicable to purpose (b).

5. In any event, as held in the Courts¹, a notice must be clear “within the four corners of the document” to an appellant, or any other person with an interest in the land, as to the precise nature of the contravention and what is required to be done to comply with a notice. A notice may be a nullity if it is “hopelessly ambiguous and uncertain”.
6. In this case, the alleged contravention is unauthorised alterations to a listed building, including replacement windows and doors, removal of chimneys, alterations to eaves and verges and erection of gate. Notwithstanding the potential ambiguity arising from the use of the term “including”, it does imply that the alleged headline contraventions that follow are not intended as a closed list.
7. Nevertheless, the requirements of a notice should tally and logically follow from the contravention. However, requirement 5 states that “an unauthorised extension with UPVC window and door, guttering, soffit and downpipe has been erected - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the replacement of these inappropriate elements with traditional materials and detailing, once the detail is agreed you are required to undertake the works to replace these elements as agreed within 12 months of the scheme being agreed”.
8. There are a number of issues here. Firstly, the extension is not included in the alleged contravention, and I am unable to correct that omission without injustice to the appellant. That is because it would expand the scope of the notice and make it more onerous. Secondly, there is uncertainty as to whether the “replacement of these inappropriate elements” relates to just the UPVC window, door, soffit and downpipe, or whether it includes the unauthorised extension as well. Thirdly, there is no indication of what the “traditional materials and detailing” should be. The requirement is therefore vague and imprecise and, having regard to the case of *Clive Payne*², it 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 she must do to comply with the notice.
9. Similarly, as part of requirement 3 for the northern elevation³, the recipient is required to submit detailed scale plans for the installation of a “more suitable” timber window. Also, as part of that requirement, as it applies to the western elevation⁴, the recipient of the notice is required to submit details of “more suitable timber alternatives” for D3 and “a more suitable timber window” for W10. Little or no indication is given as to what would be “more suitable”, so those requirements are also vague and imprecise, such that the appellant would not be able to tell with reasonable certainty what steps she must take to remedy the alleged contravention. There is also some uncertainty to requirement 5, relating to the side porch area in the western elevation, insofar as what might be an acceptable timber soffit and cladding detailing.
10. Furthermore, there is no mechanism through which the appellant could challenge any failure on the part of the Council to agree the details submitted pursuant to the above requirements, or should the appellant consider the subjective judgments

¹ *Miller Mead v MHLG* [1963] JPL 151

² *Clive Payne v The National Assembly for Wales and Caerphilly Borough Council* [2006] EWCH 597

³ Under “Image (As built) 2”

⁴ Under “Image (As built) 4”

made by the Council in these respects to be unreasonable or impossible to achieve.

11. Consequently, the LBEN is hopelessly ambiguous and uncertain in relation to what is required to remedy the alleged contraventions. The LBEN is bad on its face and a nullity.
12. The other steps also require the submission of details to be approved, but for most there is at least an indication of what the Council is looking to achieve by reference to reinstatement, based on historic evidence. Nevertheless, there would still be some uncertainty for the appellant and there is also potential for the steps to be used to secure an improvement to the listed building, compared to its state prior to the carrying out of unauthorised works. Indeed, many of the requirements refer to reinstatement of features based on original details, rather than when the building was listed. That is unreasonable, being potentially more burdensome to the appellant.
13. Taken in isolation, those steps could be corrected so as to require the relevant features to be replaced as per the pre-existing detail (where appropriate). However, once a notice is considered a nullity it cannot be corrected, as it does not exist as a legal document.

Conclusion

14. For the reasons given above, I conclude that the LBEN is a nullity. In these circumstances, the appeal on the grounds set out in s39(1)(c), (d) and (g) of the LBCA Act, do not fall to be considered.

Richard S Jones

INSPECTOR

Appendix 1

This notice requires you to undertake the following:

Image (Original) 1

1. In regard to the removal of chimneys as seen in Image (Original) 1 above - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the removed chimneys based on historic evidence. Once the detail is agreed you are required to undertake the works to restore the chimneys as agreed within 12 months of the restoration scheme being agreed.

2. In regard to alterations to the verge and gable detail in terms of the removal of timber detailing including the removal of the projecting rafters and oversailing roof structure and decorative bargeboard and soffit to the eastern gable and plain timber bargeboard to western and northern gables as seen in Image (Original) 1 above - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the architectural features based on historic evidence of the original eaves detail, once the detail is agreed, then you are required to undertake the works to restore the eaves detailing as agreed within 12 months of the restoration scheme being agreed.

3. With regard to fenestration that has been altered on the property:

Northern elevation

As in Image (Original) 1 above, 3 No. 1x1 sliding timber sash windows to the first floor have been replaced with UPVC - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the timber sliding sash windows based on historic evidence of the original window details, once the detail is agreed you are required to undertake the works to restore the windows as agreed within 12 months of the restoration scheme being agreed.

Image (As built) 2

With regard to the ground floor window replaced as shown in Image (As built) 2 above - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the installation of a more suitable timber window, once the detail is agreed you are required to undertake the works to restore the window as agreed within 12 months of the restoration scheme being agreed.

Eastern elevation

With regard to the second floor gable window with curved top which has been replaced with UPVC seen in Image (Original) 1 above - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the timber window based on historic evidence of the original window details, once the detail is agreed you are required to undertake the works to restore the window as agreed within 12 months of the restoration scheme being agreed.

As in Image (Original) 1 above, 2 no. 1 x1 sliding timber sash windows to the first floor have been replaced with UPVC - to rectify this breach, within 3 months of the notice

taking effect you must submit detailed scale plans for the reinstatement of the timber sliding sash windows based on historic evidence of the original window details, once the detail is agreed you are required to undertake the works to restore the windows as agreed within 12 months of the restoration scheme being agreed.

Western elevation -

Image (Original) 3

The second floor window noted as W7 in the Image (Original) 3 above, the multipaned 6 x 6 sliding sash window has been removed - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the multipaned timber sliding sash window based on historic evidence of the original window details, once the detail is agreed you are required to undertake the works to restore the window as agreed within 12 months of the restoration scheme being agreed.

The First floor top opening timber casement window noted as W8 in Image (Original) 3 above, has been replaced with UPVC - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the timber top opening windows, once the detail is agreed you are required to undertake the works to restore the window as agreed within 12 months of the restoration scheme being agreed.

The Ground floor multipaned timber window with top hung opener noted as W9 in Image (Original) 3 above, has been replaced - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of window, once the detail is agreed you are required to undertake the works to restore the window as agreed within 12 months of the restoration scheme being agreed.

Image (As built) 4

Following external alterations there has been installed a new UPVC door and side panel to the ground floor noted as D3 as seen in Image (As built) 4 above - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for their replacement with more suitable timber alternatives which respect the character of the original building, based where possible on historical information. Once the detail is agreed you are required to undertake the works to replace the door and panel as agreed within 12 months of the scheme being agreed.

There is a new ground floor window within former porch area noted as W10 as seen in Image (As built) 4 above, which is now an external UPVC window – to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the installation of a more suitable timber window, once the detail is agreed you are required to undertake the works to replace the window as agreed within 12 months of the restoration scheme being agreed.

Rear southern elevation -

Image (As original) 5

Insertion of UPVC windows within the original openings noted as W1, 2, 3, 4, 5, 6 as seen in Image (As original) 5 above - to rectify this breach, within 3 months of the

notice taking effect you must submit detailed scale plans for the reinstatement of timber windows based on historic evidence of the original window details, once the detail is agreed you are required to undertake the works to replace the windows as agreed within 12 months of the scheme being agreed.

Insertion of UPVC doors to original openings D1 and D2 as seen in Image (As original) 5 above – to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the reinstatement of the timber doors based on historic evidence of the original door details, once the detail is agreed you are required to undertake the works to replace the doors as agreed within 12 months of the scheme being agreed.

4. Western elevation side porch area -

As seen in Image (As built) 4 above a UPVC soffit board and clad end to a mono-pitch roof with dry verge has been installed - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for a timber soffit detail and timber cladding to the end of the mono-pitched roof area and removal of the dry verge detail, once the detail is agreed you are required to undertake the works to this element of the building as agreed within 12 months of the scheme being agreed.

Image (As built) 6

5. Southern elevation as Image (As built) 6 above, an unauthorised extension with UPVC window and door, guttering, soffit and downpipe has been erected - to rectify this breach, within 3 months of the notice taking effect you must submit detailed scale plans for the replacement of these inappropriate elements with traditional materials and detailing, once the detail is agreed you are required to undertake the works to replace these elements as agreed within 12 months of the scheme being agreed.

6. The gate to front boundary of the site has been installed and is over 1m in height as seen in Image (As built) 7 below - to rectify this breach, the gate is to be removed.