



Appeal Decisions

Site visit made on 1 September 2026

by **Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 16 September 2026

Appeal A Ref: APP/U1105/C/25/3360742

55 High Street, HONITON, EX14 1PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Julia Gardner against an enforcement notice issued by East Devon District Council.
 - The notice was issued on 23 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission and within the last 4 years, unauthorised Operational Development under Section 1718(1) of the Act consisting of the installation of two windows into the (south west) side elevation of the Building shown on the attached photograph annexed to this Notice.
 - The requirements of the notice are: Window A - (a) Remove the existing window and window frame; (b) Resize the resulting window opening in materials to match the original construction and to match the size of the window opening as shown marked [A] on the annotated version of the attached Drawing No HS/PE/01 Rev A (Plan 1) on the attached Schedule of Works. (c) Insert hardwood window frame within the re-sized opening. The frames should be left unfinished or treated with weather-shield as per photograph 1 on the attached Schedule of Works. (d) Fix timber boards to the window frame, laid on a horizontal axis and overlapping as per photograph 1 on the attached Schedule of Works. Window B - (a) Remove the existing window and window frame; (b) Infill the existing window opening in solid materials to match the original construction and finish as shown marked [B] on the annotated version of Drawing No. HS/PE/01 Rev A (Plan 1) and as per photograph 2 on the attached Schedule of Works.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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.
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Appeal B Ref: APP/U1105/F/25/3360464

55 High Street, HONITON, Devon, EX14 1PW

- 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 Mrs Julia Gardner against a listed building enforcement notice issued by East Devon District Council.
- The enforcement notice was issued on 23 January 2025.
- The contravention of listed building control alleged in the notice is installation of two windows into the south west side elevation of the building.
- The requirements of the notices are. Window A - (a) Remove the existing window and window frame; (b) Resize the resulting window opening in materials to match the original construction and to match the size of the window opening as shown marked [A] on the annotated version of the attached Drawing No HS/PE/01 Rev A (Plan 1) on the attached Schedule of Works. (c) Insert hardwood window frame within the re-sized opening. The frames should be left unfinished or treated with weather-shield as per photograph 1 on the attached Schedule of Works. (d) Fix timber boards to the window frame, laid on a horizontal axis and overlapping as per photograph 1 on the attached Schedule of Works. Window B - (a) Remove the existing window and window frame; (b) Infill the existing window opening in solid materials to match the original construction and finish as shown marked [B] on the annotated version of Drawing No. HS/PE/01 Rev A (Plan 1) and as per photograph 2 on the attached Schedule of Works.
- The period for compliance with the requirements is 6 months.

- The appeal is made on the grounds set out in section 39(1)(d), (e), (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decisions

Appeal A – 3360742 The Enforcement Appeal

1. It is directed that the enforcement notice is varied by: the deletion of the requirements and their replacement with “*Window A - (a) Remove the existing window and window frame. (b) Insert hardwood window frame within the opening. The frame should be left unfinished or treated with weather-shield as per photograph 1 on the attached Schedule of Works. (c) Fix timber boards to the window frame, laid on a horizontal axis and overlapping as per photograph 1 on the attached Schedule of Works. Window B - (a) Remove the existing window and window frame. (b) Infill the existing window opening in solid materials to match the construction and finish as shown marked [B] on the annotated version of Drawing No. HS/PE/01 Rev A (Plan 1) and as per photograph 2 on the attached Schedule of Works*”.
2. Subject to these variations the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B – 3360464 – the Listed Building Enforcement Appeal

3. It is directed that the listed building enforcement notice be corrected by: the deletion of the requirements and their replacement with the following “*Window A (a) Remove the existing window and window frame. (b) Insert hardwood window frame within the opening. The frame should be left unfinished or treated with weather-shield as per photograph 1 on the attached Schedule of Works. (c) Fix timber boards to the window frame, laid on a horizontal axis and overlapping as per photograph 1 on the attached Schedule of Works. Window B - (a) Remove the existing window and window frame. (b) Infill the existing window opening in solid materials to match the construction and finish as shown marked [B] on the annotated version of Drawing No. HS/PE/01 Rev A (Plan 1) and as per photograph 2 on the attached Schedule of Works*”.
4. Subject to these corrections 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

5. The Council have issued two notices, one a s174 enforcement notice that alleges operational development and a listed building enforcement notice that alleges harm to the listed building. The development is the installation of two windows into the upper floor of a part of the listed building that sits perpendicular to the street and runs down close to the boundary with the neighbour at No 57.
6. This is a barn like building with a large upper floor (attic) used for storage. Access is gained only by a staircase accessed from the external side passage, and the attic storage is lit by 3 windows, A, B and C. They were revealed when a lean-to building fell down. Window A is the furthest down the garden and was partially boarded up. Window B is the middle window and was bricked up and Window C

was also boarded up. Currently Windows A and B are the same size and filled with glazed wooden frames while C is smaller and still shuttered. Window C is not included in either notice as it appears nothing has been done that window.

7. There is no dispute the windows A and B have been installed and the s174 appeal is proceeding on ground (a) only, that planning permission should be granted. The appellant does dispute that there is harm to the listed building and argues that listed building consent should be granted (ground (e)). I shall deal with the subsidiary grounds (d) and (i) first.

Ground (d) – Listed Building Enforcement Notice Appeal

8. This ground is that the matters alleged were urgently necessary to preserve the building. Clearly some form of protection against the elements is necessary, however, window B was bricked up and window A covered in boards. All that was urgently necessary was to ensure there was no leakage through the boards on window A. There was no need to insert new window frames and glazing at all. This ground fails.

Ground (i) Listed Building Enforcement Notice Appeal

9. This ground is that the steps required would not restore the character of the building to its former state. The appellant is really arguing that the notice is defective because it mixes up the 'former state' with the 'original construction'. She argues the former state is the state she found them in, ie boarded and bricked up, but the original construction would likely have been actual windows. I agree there is some confusion with the wording of the requirements but this is not fatal to the notice and can be easily remedied by varying the requirements. There is no real doubt as to what the requirements actually require, as they describe it in detail.

Ground (a) – s174 and (e) Listed Building Enforcement Notice Appeals

10. There is a purely s174 argument concerning overlooking of the neighbour, which I shall deal with below, and a question of design, but the main concerns are the impact on the listed building and this revolves around the history of the windows. There seems to be no dispute that the windows were originally obscured by a lean-to roof which fell down. Window A was revealed partially boarded up and window B was bricked up, but there clearly was an old opening there for a window. The appellant says she found the two window frames in the attic storage area, had the infill bricks removed from B and inserted the new (or old) windows. If that was the case, then it is difficult to see what harm has been caused to the listed building. Returning the openings to functional windows would, in listed building terms, merely be a part of the developing history of the building. There is nothing intrinsically historic about the bricked up opening that needs conserving, nor the boarded-up window A. Given that, the appeals would succeed, as, setting aside the overlooking and design issues, the s174 appeal is the same as the listed building enforcement notice appeal.
11. However, the Council argue that in fact the appellant has made the openings to A and B bigger, by lowering the cill. They were clearly originally smaller as befitted their ancillary status but are now larger and look out of place. They have harmed the special architectural or historic interest of the listed building. It seems the Council have no objection to smaller windows of a different design.

12. The evidence for the window sizes is the photographs provided with the enforcement notice and the plan from the appellant. I'm really not sure the photographs tell me anything in terms of whether the windows are bigger or not as they are taken at oblique angles and do not show the windows together for comparison purposes. All I can suggest is that the blocked-up area of window B looks like it might be bigger than window C.
13. The plan, which is referenced in the notice does clearly show all three windows, and they are all the same size as the smaller window C. However, the appellant says this plan was drawn up during covid when an application was first made to install the two windows. No visit was made to measure the window openings; it was assumed they were all the same size. I really can't offer an opinion on that statement, but I have no reason to doubt it.
14. However, the window frames were found in the attic so it is a reasonable inference they belong to the windows, albeit not necessarily the original windows. Also I noted the smaller window C had a cill level with the floor. The floor then steps down and the new windows A and B are also level with the floor. This is not untypical of ancillary storage buildings with low roofs so also suggests the openings might be original. Finally it is far from clear why the appellant would go to the effort of removing part of the wall for a relatively modest increase in size.
15. Taking all this together, I am not convinced the window openings have been enlarged. Consequently, I do not think the window openings themselves have harmed the listed building. However, I agree that the design of the windows does leave something to be desired. The three lights of 8 panes each set in a dark wood frame look like domestic windows but set in a building that is clearly ancillary and used for storage. The Council suggested they would originally have been side hung casement windows which seems quite likely given the status of the building, whereas the main house to the front has much more elegant sash windows. What the side-hung casements would look like I am not sure, it may be they would need 3 lights, of which the two end ones were opening, or possibly just two lights of which 1 was opening. It should be fairly easy to discuss this with the Council, but I cannot verify the requirements without a specific proposal before me.
16. I visited the neighbour at No57 and saw the two windows in question directly overlooked their long, narrow garden. In particular the part of the garden by the windows is set out as a patio. Although the windows are in a building used for storage, at the moment, the sense of overlooking is palpable and clearly affects the neighbour's amenity. This was considered back in 2022 and the Council proposed an obscure glazed solution which the appellant is still happy with. If I were to grant listed building consent it could be subject to an obscure glazing condition.
17. Since the appeal was begun a new version of the NPPF has been issued. However, the changes to the section on heritage assets (policies HE5 and 6) do not affect this decision. There is harm to the heritage asset which although relatively minor still attracts great weight, there are no public benefits and the harm can be easily remedied.

Conclusion

18. The problems I have identified, poor design and overlooking can both be overcome, but, in the case of design, not by amending either the enforcement

notice or the listed building enforcement notice as neither can be subject to requirements that are uncertain, such as to 'agree a scheme with the LPA'.

19. However, I can vary the requirements to reflect my conclusions on the window opening sizes and to deal with the 'former state' issue. I shall therefore dismiss the appeals and uphold both notices as varied. The compliance periods are 6 months in both cases and this should be sufficient time to obtain planning permission and listed building consent for acceptably designed windows with obscure glazing within the openings as they currently stand. Those consents will override the upheld notices.

Simon Hand

INSPECTOR