



Appeal Decision

Site visit made on 6 January 2004

by **J D Waldron** MCD BArch MRTPI Architect

an Inspector appointed by the First Secretary of State

BOROUGH OF KETTERING
DEVELOPMENT SERVICES

RECEIVED

17 FEB 2004

FILE

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Date

16 FEB 2004

Appeal Ref: APP/L2820/C/03/1123464

2 Wales Street, Rothwell, Northamptonshire NN14 6JL.

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr K J Morgan against an enforcement notice issued by Kettering Borough Council.
- The Council's reference is EN/01/0440.
- The notice was issued on 26 June 2003.
- The breach of planning control as alleged in the notice is *Without planning permission alterations to former shop premises including:*
 - a) Replacement roof at raised level,
 - b) Insertion of windows, doors and roof-lights,
 - c) Erection of two chimneys and
 - d) The rebuilding of walls incorporating new materials.
- The requirements of the notice are (a) Carry out works so that the form and appearance of the finished buildings matches the detailed drawings 1, 2, 3 and 4 and the accompanying Design Schedule (drawing 5) attached to this Notice and thereby conform to the scheme granted consent by Kettering Borough Council on 14 September 1999 under application number KE/99/0472.
- The period for compliance with the requirements is 12 months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal succeeds in part and fails in part as set out in the Formal Decision below

Appeal Ref: APP/L2820/F/03/1123465

2 Wales Street, Rothwell, Northamptonshire NN14 6JL.

- 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 appeal is made by Mr K J Morgan against a listed building enforcement notice issued by Kettering Borough Council.
- The notice was issued on 26 June 2003.
- The contravention of listed building control alleged in the notice is the carrying out of unauthorised works namely *alterations to former shop premises including:*
 - a) Removal of existing roof and replacement with new roof at a raised level and new roof-slates,
 - b) Insertion of windows, doors and rooflights,
 - c) Erection of two chimneys,
 - d) The mechanical face stripping of dressed stone walls and
 - e) The taking down and re-construction of walls incorporating new materials.
- The requirements of the notice are:
 - a) Remove the brick chimney and supporting brick structure from the eastern gable end including the new brick course from the top of the eastern gable end parapet.

Reinstate the gable end with natural local stone laid, coursed and pointed to match the adjacent original gable end stonework. Rebuild the chimney in reclaimed red brick to the specification and design shown on drawing 5. Finish the eastern gable end wall, parapet and chimney to match the specifications and details laid out in drawings 1, 2 and 5 attached to this Notice.

- b) Reduce the height of the inner concrete block-built western gable end wall to below the original level of the roof (refer to (c) below). Remove the brick chimney and supporting brick structure from the western gable end. Rebuild the external western gable end wall in natural local stone laid, coursed and pointed to match the existing original stonework of the opposite eastern gable end wall. Rebuild the western gable end chimney using reclaimed red brick to the specification and design shown on drawing 5. Finish the resultant western gable end wall, parapet and chimney to match the details shown on drawings 1, 2, 3 and 5 attached to this Notice.
- c) Remove the new roofing material, the four rooflights, felting, roof trusses, rafters, barge boards, soffits and all other elements of the new roof structure as necessary to allow the rebuilding of the roof in its original position. Rebuild the roof structure to match the details and specifications shown on drawings 1, 2, 3, 4 and 5 attached to this Notice. The five replacement rooflights on the rear (north) roof-slope (shown on drawing 2 attached) to be Velux type GVT 1540091 (560 by 980mm) as indicated in the schedule on drawing 3 attached. Re-roof the new roof structure in natural Welsh slate and blue ridge tiles.
- d) The works to the roof required by (c) above shall include the fitting of half-round, black-painted, cast-iron gutters and supporting brackets at eaves level to both the front and rear elevations. At the western end of each of these two elevations shall be fitted round, cast-iron, black-painted down-pipes and supporting brackets such that they are fed by the above guttering.
- e) Remove all the window frames, door and doorframe from openings 1-8 shown on drawing 1 attached to this Notice. Take down and remove all stonework, brickwork, blockwork and the timber/steel shopfront lintel in the front elevation down to ground level EXCEPT;
(i) the areas of unaltered original stonework surrounding openings 1 and 5 shown on drawing 1 attached to this Notice,
(ii) the original moulded stone eaves and first floor window lintels shown on drawing 1 attached to this Notice.
The elements of the building described in (i) and (ii) above shall be retained and protected *in situ* while all other works required by steps (d) and (e) of this Notice are carried out.
- f) Re-construct the front elevation using natural local stone such that it is laid, coursed and pointed to match the retained stonework detailed at paragraph (e)(i) above. Include openings for windows, a door and lintels as shown in drawings 1 and 5 attached. Insert lintels, windows and a door into these openings such that the final appearance of the front (south) elevation matches the details and specifications shown on drawings 1 and 5 attached. Window 3 shall match the sectional details shown on drawing 5 but with only one central mullion and overall dimensions as shown on drawing 1.
- g) (i) Remove the ground floor door, door frame and timber lintel from the rear (northern) elevation shown at opening 15 of drawing 2 attached to this Notice. (ii) Remove the timber lintels from above the windows shown at openings 9, 10, 11, 13, 14 and 16 on drawing 2 attached to this Notice, and from above the door shown at opening 12 on drawing 2 attached to this Notice. (iii) Insert Oak lintels above openings 9, 10, 11, 12, 13, 14, 15 and 16 shown on drawing 2 attached to this Notice, so that each Oak lintel is 85mm high, 100mm deep and extends 150mm beyond each side of the opening it sits above.
- h) Insert, into window openings 9, 10, 11, 13, 14 and 16 timber window frames of a specification to match the sectional details shown on drawing 5 attached, removing stonework as necessary to accommodate the larger dimensions. Windows 9, 10, 13

and 14 to feature a single central mullion only and windows 11 and 16 to feature a single central mullion and single transom. Overall window dimensions and configuration to match the details shown on drawing 2 attached to this Notice. Fit timber door frames and timber doors in openings 12 and 15 to match the sectional and configuration details shown in drawing 5 attached to this Notice – the dimensions to match those shown in drawing 2 attached to this Notice.

- i) Take down that element of the front boundary wall between the eastern elevation of the building and the entrance to the site, which has been constructed in brick, concrete block and stone overlaid with ceramic tiling, taking care to retain the original stone elements. Rebuild the wall to the same height using natural local stone laid, coursed and pointed in the traditional manner of the area.
 - j) Except for the inclusion of an additional ground floor window in the rear elevation shown at opening 14 on drawing 2 attached to this Notice, all works shall be carried out and completed so that the final appearance of the building conforms to the details shown on drawings 1, 2, 3 and 5 attached to this Notice.
- The period for compliance with the requirements is 12 months from the date the notice takes effect.
 - The appeal is made on the grounds set out in Section 39(1)(a), (e), (g) and (h) of the 1990 Act as amended.

Summary of Decision: The appeal succeeds in part and fails in part as set out in the *Formal Decision below*

Background

1. Listed building consent was granted in 1990 in respect of “2 Wales Street (Old Co-Op Building)” for the “**Demolition of dangerous building**” namely extensions, requiring by condition that the remaining structure “**be made sound and secure to the satisfaction of the local planning authority in accordance with details to be agreed in writing prior to the commencement of the demolition**”. The extensions were removed. The remaining structure is the building enforced against. Previously conditional listed building consent had been granted for the demolition of The Old Co-Op Building, Wales Street in 1988 “**due to poor condition and unsafe nature**”, but subject to an agreed redevelopment scheme that provided “**for frontage development, reflecting the character of this part of the Rothwell Conservation Area**”. This consent was not implemented.

The Notices

2. The alleged unauthorised works in each notice are “**alterations to former shop premises including ...**”. By the use of the word “**including**”, the allegations refer to all the unauthorised works, and not just those subsequently listed. However the Council confirmed at the site visit what appears to be the case from the requirements of the listed building enforcement notice, namely that the works enforced against concern only the external form and appearance of the building, and not its interior. For the avoidance of doubt the notices need to be corrected and varied accordingly.
 3. Conditional planning permission (KE/99/0472) and conditional listed building consent (KE99/0504/LB) were granted to the appellant in 1999 for a scheme designed by an architect to convert the building into two three-storey dwellinghouses. (The approved drawings in each case are Nos: RS/99/1019/20A; /50; /51; /52; /53; /54A; /55A; /56A; /57A; /58; /59A; /60A.)
 4. The works enforced against, albeit unfinished, are seeking to convert the building into two three-storey dwellinghouses. The conversion scheme bears some similarity to the approved
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scheme. Nevertheless I agree with the Council that, as a matter of law, the planning permission and the listed building consent have not been implemented because conditions precedent have not been satisfied.

5. The requirements of the enforcement notice refer to making the building **“conform to the scheme granted consent”** in **“1999”**. It follows that the allegation should properly refer to alteration of the external form and appearance of the building not in accordance with the planning permission granted in 1999. Likewise the allegation in the listed building enforcement notice should properly refer to the alteration of the external form and appearance of the building not in accordance with the listed building consent granted in 1999. Such corrections would remove any possible confusion between the different wording of the respective allegations, and would not extend the scope of either allegation. In my view the allegations can be corrected accordingly without injustice to either party and within the powers available to me. The appeals are determined on this basis.

The requirements of the notices

6. The requirements of the enforcement notice appear to have been made under Section 173(4)(a) for the purpose of **“remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted ...”**. Section 173(5)(a) indicates explicitly that this can include **“the alteration ... of any building ...”**.
7. The requirements of the enforcement notice, and indeed the listed building enforcement notice, refer to certain of the drawings approved under the planning permission and listed building granted in 1999, namely Drawings Nos: RS/99/1019/58, /59A, /60A and /53 (referred to in the notices as drawings 1, 2, 3 and 4 respectively). Additionally the requirements of each notice refer to a **Supplementary Design Schedule** (referred to in the notices as drawing No: 5). This drawing has been commissioned by the Council from an architectural consultant and is based closely on the approved drawings including the various notes and specifications, in particular those on drawing No: /60A. In my view none of the information included on drawing No: 5 is unreasonable or excessive in the context of the approved scheme. The information does not exceed what would reasonably be approved in satisfying conditions imposed on the planning permission and on the listed building consent. In my view the requirements of the enforcement notice do not need to refer to any of the approved drawings which are well known to the parties. However reference needs to be made to drawing No: 5.
8. Requirement (i) on the listed building enforcement notice appears to be incorrect in referring to the **“eastern”** elevation. It should be the western elevation. The allegation in the listed building enforcement notice refers to the carrying out of works. Requirement (i) does not flow from this allegation because, from the photographs submitted, no significant works appear to have been carried out to the boundary walling in question since listed building consent was granted in respect of the demolition of extensions in 1990. Therefore requirement (i) is *ultra vires* and should be deleted from the notice.
9. The requirements of the listed building enforcement notice have been made under Section 38(2)(b) of the Act, namely to alleviate the effect of the works carried out without listed building consent. (The appeal has been made on ground (g), which is inappropriate for requirements made under this sub-section, the appropriate ground being ground (j).) However, taking into account the requirements of the enforcement notice, and all the

circumstances in this case, it seems to me that the requirements of the listed building enforcement notice should properly be made under Section 38(2)(c) of the Act, **“for bringing the building 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”**. In my view this sub-section is intended to deal with situations such as here, where listed building consent has been granted for a scheme which is not followed in its entirety in the works subsequently carried out. The appropriate ground of appeal against requirements made under this sub-section is ground (k).

10. Having the requirements of both notices phrased in similar terms would remove any possible confusion and lack of clarity about what is required.
11. In my view the corrections and variations put forward above do not extend the scope of the requirements. I conclude that the requirements of the enforcement notice and the listed building enforcement notice can be varied as set out above without injustice to either party and within the powers available to me. The appeals will be determined accordingly and a ground (k) appeal will be addressed.

The building enforced against

12. The appellant questions the validity of the listing process. The list description submitted by the Council refers to **“SUN HILL (north side) No 2 (Former Co-Op Stores)”** and not to 2 Wales Street. The list description refers to it as **“House, now a shop. Late C17, with C19 and early and mid C20 additions. Coursed and squared ironstone, colourwashed and partly rendered, with limestone and brick dressings and Welsh slate roof. Plinth, first floor band, moulded stone eaves, coped gables with the tops renewed in brick, and kneelers. 2 storeys, 4 bays, L-plan. Street front has to right an early C20 shopfront with a splayed recessed doorway flanked by single plate glass windows all under a bracketed fascia. To left, a blocked door and beyond, a C20 casement. Above four 2- and 3-light wooden mullioned and transomed casements. All these windows have keystones, 2-bay rear wing has a single brick gable stack. 2-bay flat roofed addition to west is not of special architectural interest.”**
13. The building enforced against is located on the north side of the street and is the building to which the list description refers. Paragraph 6.19 of PPG15 points out that the list description **“is principally to aid identification”**. A listed building consent granted in 1988 refers to the building as **“The Old Co-Op Building, Wales Street, Rothwell”**.
14. The building enforced against is numbered **“2”** and **“4”** on the extract from an Ordnance Survey map attached to the notices. This numbering may well relate to pre-shop use. The building fronts on to the side of 3 Sun Hill. The appellant has submitted an old photograph which appears to have been taken in the early C20 from clothes being worn. The photograph shows a 2-storey thatched building between the east end of the building enforced against and the Rowell Charter Inn. According to the appellant the former thatched building was 2 Sun Hill. It appears to have been demolished some time after about 1963-4 when it is shown on an aerial photograph submitted by the appellant.
15. Wales Street and Sun Hill appear to meet in the vicinity of the building enforced against. Prior to listing, the building may well have been known locally as the Co-Op stores/former Co-Op stores in Sun Hill rather than in Wales Street. This is because Sun Hill is more closely associated with the main street through Rothwell. This may well account for the address given with the list description. In 1999 the building was referred to in a listed building consent granted to the appellant as 2 Wales Street. There does not appear to have

been any real dispute between the parties about which building has been listed. In all the circumstances of this case I conclude that the building enforced against is validly listed as a building of special architectural or historic interest within the meaning of Section 1 of the Act. The appeals are determined accordingly.

Appeal on ground (a) against the listed building enforcement notice

16. Under this ground of appeal, the listed building needs to be considered in its architectural state before the various unauthorised works enforced against were carried out.
17. On the information before me it appears that a significant amount of historic fabric existed before the building deteriorated into a poor state of repair and before the works enforced against were carried out. The scheme for which listed building consent was granted in 1999 includes distinctive features and details, as referred to in the list description, such as coped gables, moulded stone eaves, kneelers, 2- and 3-light wooden mullioned and transomed casements, and keystones. At first floor level the projecting keystones of the segmental stone lintols relate to distinctive projections on the moulded stone eaves. This unusual relationship has been an important feature of the front elevation.
18. Paragraphs 6.10 and 6.11 of PPG16 set out the main criteria which the Secretary of State applies as appropriate in deciding which buildings to include in the statutory list. In my view No 2 was of significant architectural quality before the building deteriorated into a poor state of repair and before the works enforced against were carried out. It was of some historic interest illustrating an aspect of the nation's social history, namely change from residential to retail use, and of significant group value with other listed buildings and traditional buildings in the vicinity.
19. Paragraph 6.11 points out the circumstances in which age and rarity are relevant considerations, namely that all buildings built before 1700 which survive in anything like their original condition are listed, and most buildings of about 1700 to 1840 are listed though some selection is necessary. No 2 appears to date from the late C17 and although not in its original architectural condition nevertheless has had features of significant interest.
20. In my view No 2 was of definite quality and character. On balance I consider that it correctly qualifies as a building of special architectural or historic interest within the meaning of Section 1 of the 1990 Act. The appeal fails on ground (a).

Appeals on ground (a) against the enforcement notice and ground (e) against the listed building enforcement notice, and the deemed application for planning permission

21. The appeals on grounds (a) and (e), and the deemed application, are in respect of the unauthorised building operations/works that had been carried out by the time the notices were issued. The building has remained generally in the same, unfinished, state since then.
22. Under Section 66(1) of the 1990 Act, "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Under Section 16(2) of the 1990 Act, in considering whether to grant listed building consent, special regard shall be given to the "desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". These requirements accord

generally with the aims of Policy AR6 of the Northamptonshire County Structure Plan 2001 and Policy 24 of the Local Plan for Kettering Borough adopted 1995.

23. No 2 is in Rothwell Conservation Area. Under Section 72(1) of the 1990 Act in respect of conservation areas, **"special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"**. This requirement accords generally with the aims of Policy AR6 and GS5 of the Structure Plan and Policy 22 of the Local Plan.
24. In this context, I consider that the main issues in each case are the effect of the works enforced against on the special architectural quality of the listed building and on the character and appearance of the Rothwell Conservation Area.
25. Paragraph 3.12 of PPG15 states with regard to listed buildings that **"In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question"**. This assessment needs to be made before the works enforced against were carried out. The building had a simple shape and distinctive traditional detailing. In my view the building's external form and appearance was of special interest within the meaning of paragraph 3.12.
26. No drawing indicates precisely how the building would be finished externally.
27. Coped gables have not been incorporated. The slate roof appears to be set higher than formerly in relation to the moulded stone eaves and kneelers, the kneelers formerly providing the bottom element of the copied gables.
28. The western gable wall is of blockwork externally. The outer face of the new brick chimney has been set almost flush with the blockwork. The stone front wall and the moulded stone eaves project well beyond the face of the blockwork and thus well beyond the outer face of the new brick chimney. It follows that the provision of an external stone leaf, as suggested by the appellant, relating properly to the distinctive shaped end of the moulded stone eaves, would project well beyond the chimney. Thus a copied gable would not have a traditional relationship with the chimney, and moreover would not accord with a copied gable provided at the eastern end where the outer face of the new brick chimney is set almost flush with the existing stone gable wall. The scheme approved in 1999 shows the traditional relationship. What has been built appears unrelated to the moulded stone eaves and the kneelers. I find no reason to disagree with the Council that copied gables could not reasonably be provided in the former, traditional, arrangement without the replacement of the roof structure and the repositioning of the western chimney. The objections could not be overcome by conditions. Paragraph C.27 of PPG15 advises that the **"roof is nearly always a dominant feature of a building and the retention of its ... shape ... is important"**.
29. In respect of the front (south-facing) wall, the beam above the shopfront has been retained. Timber packing pieces above, and a timber facing in front, are set almost flush with the stonework. The appellant wishes to render the front elevation. However the segmental stone lintols are generally flush with the stonework except for the projecting keystones. Rendering the wall would cover the segmental stone lintols except for the keystones. The attractive and distinctive relationship between the segmental stone lintols and the moulded stone eaves would be lost. Paragraph C.9 of PPG15 advises that historic lintol details should be retained, and paragraph C.8 advises that **"stonework should not normally be rendered unless the surface was rendered originally"**.

30. One of the new front windows is narrower than the former window. It is off-centre in relation to the segmental stone lintol. The window appears wholly out-of-place.
31. The windows are of modern non-traditional construction with double-weathering to the opening lights, the opening lights projecting in front of the frames. The windows on the front elevation are contrary to the advice at paragraph C.40 of PPG15 that **"As a rule, windows in historic buildings should be repaired, or if beyond repair should be replaced 'like for like'".** The approved scheme seeks to achieve this in respect of the windows on the front elevation other than the shop window.
32. In the approved scheme, one of the dwellings is shown with an entrance from Wales Street. No such entrance has been provided in the works carried out. The appellant is concerned about safety, due to the narrowness of the footway on the north side of Wales Street. However, in a building of residential origins dating from the C17, it is inappropriate not to have an entrance door on the main front (south-facing) elevation of the building, in particular when that elevation fronts a highway. In my view this consideration outweighs any safety consideration in this case.
33. In my view certain of the works which have been carried out contrary to the approved scheme, do not cause any significant harm to the special architectural quality of the listed building and are thus not contrary in any significant way to the requirements and policies referred to above. They are namely (a) the design of the chimneys, which are of generally traditional form, and the bricks used in their construction which appear to match those used elsewhere in the Conservation Area (b) the number, size and location of the window openings on the rear (north-facing) elevation (including the provision of an additional ground floor window) (c) the number, size and location of the rooflights on the rear roof slope (but not their design). The rooflights that have been installed stand significantly proud of the slate roof and look out-of-place and incongruous on a listed building dating from the late C17. The conservation-type rooflights specified in the approved scheme would not stand so proud and would appear more like traditional rooflights, one of which was installed formerly on the rear roof slope.
34. In conclusion PPG15 refers to the importance of protecting the historic environment. Clearly major works were necessary in view of the building's poor condition. However, except in respect of the items listed in the previous paragraph, the works enforced against appear out-of-place and incongruous and devalue the traditional quality of No: 2. They do not appear to have been based on a proper understanding of the building, as referred to in paragraph C.3 of PPG15. I consider that they harm the special architectural quality of the listed building contrary to the aims of Section 66(1), Section 16(2), Policy AR6 and Policy 24.
35. No: 2 is prominent in the streetscene of Rothwell and has contributed to the traditional character of this part of the extensive Conservation Area. Harming the special architectural quality of the listed building has harmed the character and appearance of the Rothwell Conservation Area, contrary to the aims of Section 72(1) and policies AR6, GS5 and 22.
36. In coming to these conclusions I have taken into account the scheme in the English Heritage Conservation Bulletin issue 43 carried out by the Buildings at Risk Trust and the buildings in Rothwell in the vicinity of No: 2 which were pointed out at the site visit.

37. PPG15 advises, at paragraph 3.42, that listed building consent should not be granted to recognise a *"fait accompli"*. It is necessary to consider whether consent would have been granted for works **"had it been sought before they were carried out, while having regard to any subsequent matters which may be relevant"**. I have taken into account the other works referred to by the appellant in the locality. However they do not justify the carrying out of works that harm the listed building and the Conservation Area. Except for the works listed above to which there is no objection, I am not persuaded that consent would have been forthcoming within the meaning of paragraph 3.42, especially given the sensitive and appropriate scheme for which the appellant obtained listed building consent in 1999.
38. I have taken into account the appellant's efforts to rescue the building without financial assistance, and the support he has received locally. However, on balance, the harm could not be overcome by the imposition of conditions and, mindful also of Section 54A of the Act, is not outweighed by other material considerations.
39. For the reasons given above, and having regard to all other matters raised, the appeals on grounds (a) and (e) succeed but only in respect of the items referred to above, for which planning permission (on the deemed application) and listed building consent will be granted.

The appeal on ground (f) against the enforcement notice

40. As indicated previously an enforcement notice can require a building to be altered to comply with the terms of a planning permission granted in respect of that building. Ground (f) provides **"That the steps required by the notice to be taken ... exceed what is necessary to remedy any breach of planning control which may be constituted by those matters ..."**.
41. I have already found that the information on the Supplementary Design Schedule (drawing No: 5 attached to the notice) is not unreasonable or excessive in relation to the scheme for which planning permission has been granted, given the listed status of the building. I have already concluded that planning permission should be granted for some of the items enforced against. Apart from these items I find no reason to conclude that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control. The appeal succeeds on ground (f) but only insofar as the requirements of the notice are varied to allow the items for which planning permission is being granted to be substituted instead.

Appeal on ground (k) against the listed building enforcement notice

42. The appeal on ground (k) is **"That steps required to be taken by virtue of Section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with"**.
43. In view of my conclusions on ground (f), I find no reason to conclude that the steps required to be taken by virtue of Section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with. An appeal on ground (k) would fail.

Appeal on ground (g) against the enforcement notice and ground (h) against the listed building enforcement notice

44. The test under each of these grounds of appeal is whether the period specified **"falls short of what should reasonably be allowed"**. A considerable amount of work needs to be undertaken, requiring careful planning and organisation, and implementation by skilled craftsmen. In my view a reasonable period for compliance would be 18 months. This should allow time for the works to be planned and programmed to avoid inclement weather over the winter period. I am not persuaded that it would be reasonable to extend the period for compliance to 3 years for the purpose of raising funds. The Courts have held that under these grounds of appeal the period for compliance needs to be no more than is reasonably necessary to carry out what is required to be done. The appeals succeed on grounds (g) and (h) insofar as the periods for compliance will be extended as indicated above.

FORMAL DECISION

Appeal against the enforcement notice

45. I determine the appeal as follows:

- (a) direct that the enforcement notice be corrected at paragraph 3 by the deletion of the text under the heading and the substitution therefor:

Without planning permission, the alteration of the external form and appearance of the building not in accordance with the planning permission granted on 14 September 1999 under application No: KE/99/0472.

- (b) allow the appeal insofar as it relates to the following items, namely (a) the design of the two chimneys as erected and the type of brick used in their construction (b) the number, size and location of the window openings as erected on the rear (north-facing) elevation (c) the number, size and location of the rooflights as erected on the rear roof slope (but not their design), and grant planning permission for these items on the application deemed to have been made under Section 177(5) of the Act as amended.
- (c) direct that the enforcement notice be corrected and varied at paragraph 5 by the deletion of item (a) and the substitution therefor:

Carry out works so that the external form and appearance of the building accords with the scheme for which planning permission was granted on 14 September 1999 under application No: KE/99/0472 incorporating the information on the Supplementary Design Schedule (Drawing No: 5 attached to this notice), except with regard to those items for which planning permission is granted in sub-paragraph (b) above which can be substituted instead.

Time for compliance: 18 months from the date this notice takes effect.

- (d) dismiss the appeal insofar as it relates to matters other than those items referred to in sub-paragraph (b) above, uphold the enforcement notice as corrected and varied, and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the Act as amended.

Appeal against the listed building enforcement notice

46. I determine the appeal as follows:

- (a) direct that the listed building enforcement notice be corrected at paragraph 3 by the deletion of the text and the substitution therefor:

It appears to the Council that the works described below ("The Works") have been executed to the Building in contravention of Section 9(1) of the Act, and the Council considers it expedient to issue this Notice having regard to the effect of the unauthorised works on the character of the Building as one of special architectural or historic interest. The unauthorised works are the alteration of the external form and appearance of the building not in accordance with the listed building consent granted on 14 September 1999 under application No: KE/99/0504/LB.

- (b) allow the appeal insofar as it relates to the following items, namely (a) the design of the two chimneys as erected and the type of brick used in their construction (b) the number, size and location of the window openings as erected on the rear (north-facing) elevation (c) the number, size and location of rooflights on the rear roof slope (but not their design), and grant listed building consent for these items.
- (c) direct that the listed building enforcement notice be corrected and varied at paragraph 4 by the deletion of the text under the heading and the substitution therefor:

Carry out works so that the external form and appearance of the building accords with the scheme for which listed building consent was granted on 14 September 1999 under application No: KE/99/0504/LB incorporating the information on the Supplementary Design Schedule (Drawing No: 5 attached to this notice), except with regard to those items for which listed building consent is granted in sub-paragraph (b) above which can be substituted instead.

Time for compliance: 18 months from the date this notice takes effect.

- (d) dismiss the appeal insofar as it relates to matters other than those referred to in sub-paragraph (b) above, uphold the listed building enforcement notice as corrected and varied, and refuse to grant listed building consent for these works.

Information

47. Particulars of the right of appeal against this decision are enclosed for those concerned.
48. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990 and Sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



Inspector