

**HAVANT BOROUGH COUNCIL – STATEMENT OF APPEAL
PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990,
SECTION 38**

LISTED BUILDING ENFORCEMENT NOTICE

Appeal by: Mr Sam Wilson of Stoke Fruit Farm

Appeal site: Antrims Barn, St Peters Road, Hayling Island, PO11 0RT (“the Land”)

Appeal grounds: The appeal is made under grounds (C), (E) and (G)

Development: Erection of a single storey rear extension to Grade II Listed Building

Planning Inspectorate ref: APP/X1735/F/23/3319251

Local Authority REF: 19/00056/CMP/UNBW

1.0 Introduction

The appeal is against the service of a listed building enforcement notice served by the LPA, for the alleged;

- Erection of a single storey rear extension to a Grade II Listed Building

A copy of the listed building enforcement notice has already been forwarded to the Inspectorate.

2.0 Appeal Site

2.1 The appeal site comprises a C18 barn, which has been converted into a dwelling house. Due to its architectural and historic interest, the barn is Grade II listed. The main part of the site lies within St Peters Conservation Area, but not the extension to the host dwelling, which lies immediately to the west.

The building itself is a timber framed four bay barn with eastern side aisle that prior to conversion was in a poor condition and partially collapsed. The site includes a lower cart-shed building to the northern side and a 3 bay garage to the western side.

The site is accessed by an existing driveway from St Peters Road with vegetation along the boundary with St Peter's Road. A footpath runs to the north, outside of the site.

2.2 The building was listed on 30 July 2004. The listing description is as follows:

"100/0/10034 ST PETER'S ROAD 30-JUL-04 Hayling Island Barn with attached cartshed adjacent to village hall

II Threshing barn and attached cartshed. Barn dated 1791 with the initials JH to tiebeam adjoining southern cart door, cartshed appears of similar date. BARN:

Timberframed, clad in weatherboarding, much still tarred. Half-hipped roof covered in corrugated iron sheeting. Four bay barn, aligned north to south with cart entrance in penultimate bay to north. The west side has full-height double cart doors retaining pintle hinges and lower doors to the east. The interior has upright posts with cut profile jowls and the aisle posts have stone padstones. The wall frame has a midrail and diagonal braces. The roof structure has angled queen struts with purlins and original rafters with ridgepiece. CARTSHED: Attached to the north east, also timberframed, clad in tarred weatherboarding with hipped roof covered in corrugated iron sheeting. It is of one storey and four bays, open fronted to the east where it is supported on square wooden piers. The roof structure has tiebeams and original rafters.

Late C18 timberframed aisled threshing barn, dated 1791 on a tiebeam, with attached openfronted cartshed of similar date."

3.0 Planning History and Background

- **2007** – 07/62510/001 & 07/62510/002; Planning Permission and Listed Building Consent obtained for conversion of existing barn to dwelling house and erection of detached garage. Decided 20th August 2007/ 22nd July 2010
- **2015** – APP/15/00002 - Listed Building application for conversion of barn to dwelling house (part retrospective) - alternative scheme of conversion to that approved under Listed Building Consent 07/62510/001

Planning Enforcement Background

- **March 2019**- Enquiry raised with the Council about the appearance of this new extension contained on a listed building. Site visit was carried out and officer established the breach under listed building control. The appellant's replied suggested the structure was completely mobile.
- **April 2019** – Further site visit performed to gather information by the LPA's conservation officer. A letter was sent 16th April 2019 detailing that the development constituted an unauthorised single storey rear extension to Grade 2 listed building
- **May 2019** - Comment from the conservation officer to the planning officer following the on-site meeting with the appellant, confirming no further contact had been received from the appellant and noting it would not be a development that is likely to be supported, should an application be made, due to its harm to the listed building.
- **May 2019**- The appellant responded following the site visit suggesting the building is abutting, offering to remove the lead flashing and prove it is a mobile structure. Also noting the extension itself is not contained within the Listing. Subsequently a Planning Contravention notice was issued, and hand delivered 13th May 2019, no response was received.
- **October 2020**- Interim planning enforcement manager confirmed the Council's position on the matter, summarised the events to date and offered a final site visit to seek to conclude the investigation.
- **December 2022** – due to a staff change new officer is allocated to the case and asked to perform site visit. It was noted the extension was the same, and

in the LPA's opinion connected to the Listed Building and therefore requiring listed building consent.

- **March 2023** – Listed Building Enforcement notice served.

4.0 Grounds of Appeal

4.1 Ground C – The facts to support do not constitute a contravention.

4.2 Ground E – Listed Building Consent ought to have been granted for the works, or that any relevant condition of such consent which has been granted ought to have been discharged, or different conditions substituted.

4.3 Ground G – Facts to support that except in relation to such a requirement as is mentioned in section 38 (2) (b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.

4.4 Public Benefit and planning balance. Appellant considers the impact to significance is extremely limited. The structure the subject of the notice is not within the Conservation area.

5.0 Relevant Planning Policy

5.1 Policy CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough

Planning permission will be granted for development that:

1. Ensures the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected and where possible enhanced by partnership working with developers, groups and the wider community.
2. Protects and where possible enhances the borough's statutory and non-statutory designated landscape, habitats and features of biological, hydrological or geological interest. Protection and enhancement will be achieved by appropriate adaptation and mitigation measures including wardening, education and information and the creation of new habitats, water bodies/courses planting of new trees and woodland.
3. Has particular regard to the following hierarchy of nature conservation designations within the borough (as identified on the Proposals Map):
 - (i) Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar [International].
 - (ii) Sites of Special Scientific Interest (SSSI) and National Nature Reserves [National].
 - (iii) Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), other Ancient Woodland not identified in (ii) above [Local].
4. Protects and where appropriate enhances the borough's statutory and nonstatutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or

architectural interest.

5. Supports an ongoing programme of survey of habitats and species and designation

of Sites of Importance for Nature Conservation.

6. Incorporates partnership working with conservation organisations to improve public understanding of biodiversity and to manage public access to designated sites, particularly on the coast, to reduce harm to nature conservation interests.

7. Incorporates partnership working with landowners and developers to ensure land management practices restore, enhance and where appropriate create new valued landscapes, habitats and their soil structure, particularly the ancient woodland remnants of the Forest of Bere and coastal salt marsh.

8. Protects wildlife habitats and wildlife corridors to prevent the fragmentation of existing habitats and to allow species, for example Brent Geese, to respond to the impacts of climate change by making provision for habitat adaptation e.g. coastal managed realignment and species migration.

9. Maintains undeveloped gaps between the settlements of Emsworth/Havant; Havant/Waterlooville; Havant/Portsmouth; Emsworth/Westbourne and Leigh Park/Rowlands Castle as shown on the Proposals Map.

10. Protects the best and most versatile agricultural land that has the greatest potential for local food security.

11. Responds to the emerging evidence from the Solent Disturbance and Mitigation Project, the published recommendations, and future related research.

5.2 Policy CS16 High Quality Design

Policy CS16 of the Havant Borough Council Core Strategy 2011, requires, amongst other matters, that all new development should be of a high standard that responds positively to the local character within or close to the development site and use the characteristics of the locality to help inform the design of the new development.

5.3 DM20 Policy DM20 Historic Assets

Planning permission will be granted for development that conserves and enhances the historic assets of Havant Borough.

Applications that affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement that:

1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.
2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets.

9.10 The Council has a positive strategy for the conservation and enjoyment of the historic environment in line with the NPPF. This strategy is made up of a number of

local plan policies.

Policies CS11 and CS16 of the Core Strategy set out the strategic approach to protecting heritage designations and promoting high quality design. Policy DM20 sets out the development management requirements for planning applications that affect or have the potential to affect heritage assets. Finally, Policy DM21 deals with shopfronts and advertisements. The Council will appropriately manage development and determine planning applications that affect the Borough's historic environment through the Local Plan's policies, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF, in particular paragraphs 126 to 141 and any other material consideration.

9.11 The Council recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. The Borough's heritage assets include scheduled ancient monuments, registered parks and gardens and archaeological sites, fourteen designated conservation areas and Statutory List of Buildings of Special Architectural or Historic Interest and the Local List of Buildings of Special Architectural or Historic Interest. The NPPF considers that the more important the heritage asset the greater the weight that should be attached to its conservation appropriate to their significance, for example the loss or harm to nationally important site is considered to be wholly exceptional.

9.12 Applications that affect or have the potential to affect heritage assets and their setting, including sites with archaeological potential are expected to be supported by a Heritage Statement. The Heritage Statement should identify the significance of the asset and set out the impact of the development. It should contain an appropriate level of information and detail to satisfy the requirements set out in paragraphs 128-141 of the NPPF. This includes consulting the Hampshire Historic Environment Record (HER), as a minimum. The level of detail required to support the application should be proportionate to the significance of the heritage asset and the impact of the development. There are a number of site allocations that will need to be supported by a Heritage Statement at the planning application stage. This is set out in the development requirements for each site. The Council encourage opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset will be treated favourably.

6.0 Statement of Case.

6.1 For ease of reference, the appeal grounds are set out separately below commencing with ground **(C)**.

6.2 In relation to the Ground (C) appeal "That those matters (if they occurred) do not constitute such a contravention."

6.3 Following a number of site visits by different officers, it has been established that a single storey rear extension had been constructed and attached to the main

dwellinghouse (that being the listed building). It is claimed by the appellant (owner) that this extension is mobile, as it is constructed on some form of metal frame/skids and therefore not permanently attached to the building. It is therefore, in the appellant's view, not subject to planning control. The appellant has indicated the extension is required as a storage/ boot room so that dirt from the farm would not be taken into the main part of the dwelling house and as a shelter for lambs etc. The appellant has indicated that it can be demonstrated how the structure can be moved, but this has not been demonstrated; nor on the evidence available has the extension been moved since its erection in 2019.

6.4 The Court of Appeal case of Skerrits of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (No.2) [2000] 2 P.L.R. 102 is authority that there are three primary factors relevant to the question of whether there is a building: size, permanence and degree of attachment to the ground.

6.5 Due to the size of the building, it is not considered to be capable of being moved and in fact has not been moved since its construction. As to permanency, the extension, whilst not appearing to be attached to the ground, is attached to the dwellinghouse, and has been since first constructed in 2019, with an internal access provided from the extension to the main house via a doorway. The extension is also physically attached to the host dwelling with connecting guttering/ lead flashing, as clearly shown in the photographs in Document 2 in the appellant's statement. These photographs also fail to show the extension is on skids, albeit it is stated on page 25 that there is a 'Metal frame of former lorry chassis base' under the decking, which does not appear to be under the building, on the information available. As to the LPA's photographs of March 2019 this shows the building in a state of construction and in the same position as the photographs taken in December 2022, as attached at Appendix 1.

6.6 As to the appellant's photographs these do not demonstrate that the extension is moveable or has been moved at any time since its erection in 2019. In fact, they show the opposite, as the extension has remained in the same position, since construction, with no time limit on the length of time that it would remain so. The LPA contends that the development fails the test of a temporary building and due to its permanence is an extension to the listed building subject to listed building control.

6.7 The LPA is of the view, that as a matter of fact the extension constitutes a breach of listed building control and the Ground C appeal should be dismissed

6.8 In relation to the Ground (E) appeal "That listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted."

6.9 As required by Section 16 of the Planning (Listed Building & Conservation Areas) Act 1990 (PLBCA 90) "...LPA, 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." To preserve the building the LPA served a Listed Building Enforcement Notice due to the extension's harmful impact on the setting and appearance of the Grade II listed building which has a negative effect on its significance as a designated heritage

asset. The harm identified would equate to less than substantial harm. In such circumstances, the Framework identifies that this harm should be weighed against the public benefits of proposals.

6.10 It has not been demonstrated that any such public benefits exist that would justify development that would be harmful to the setting of the listed building or its appearance. Hence, the unlawful development fails to satisfy the requirements of the Act, the Framework and conflicts with the design and heritage aims of local adopted planning policy, which amongst other matters, seeks to protect the Borough's heritage assets.

6.11 Whilst it is acknowledged that the materials-of this C21 rear extension match the host dwelling, the extension, breaks the simple form of the original building whilst also serving to conceal and disturb the historic layout of the barn and part of its history. Therefore, its proportions and appearance are crude and at odds with the remainder of the building's exterior, which fail to preserve the building and the Ground E appeal should be dismissed

6.12 In relation to the Ground (G) appeal 'That except in relation to such a requirement as is mentioned in section 38(2) (b) or (c) of the Act, that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.'

6.13 The LPA contend, that the works required by the LBEN are the minimum necessary to address the harm and to restore the building to its condition before the works were carried out, in the interest of the integrity, character and appearance of this Grade II listed building.

6.14 As the Inspector will note the LPA requires within the enforcement notice that the appellant provides a full method statement to demonstrate how the extension would be removed, to protect the historic fabric of the Listed Building.

6.15 The appellant appears to suggest steps to remove the structure would restore the building to its former condition, to comply with the enforcement notice, but provides no information on when this would occur. However, this would have to be subject to a method statement detailing how the extension would be removed. No such method statement has been submitted with the appeal, which is fundamental to the protection of this listed building.

6.16 As to the other suggestion relating to a glass box-like transition, this would have to be the subject of listed building and planning applications, as there are no details before the LPA or the Inspector to consider this, as part of the appeal process.

6.17 As there is no clear indication from the appellant when the building would be removed, and no method statement provided, the Inspector is respectfully requested to dismiss the Ground G appeal, as the required steps are the minimum necessary to secure the preservation of this listed building.

6.18 NOTES ON PUBLIC BENEFITS AND CONCLUSIONS

6.19 The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance. The Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be considered in determining applications. The Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.

6.20 The listing for Antrim's Barn covers anything which is attached to the building (in the LPA's opinion the single storey extension is attached to the building) and thus covered by the listing status, in this case without listed building consent. The extension is adjacent to the St Peter's conservation area, with the rest of the listed building being within the boundary.

7.0 The Human Rights Act

7.1 As to the Human Rights Act 1998 and the equality Act 2010, The LPA has full regard to the appellant's and occupier's rights under these Acts. However, this must be weighed against the wider public interest. For the reasons set out in the enforcement notice and above, it is considered that the development is unacceptable in listed building terms. The LPA is satisfied that the public interest test, which is a legitimate aim, may only be adequately safeguarded by full compliance with the enforcement notice, which would not be disproportionate, unreasonable, or inequitable.

8.0 Appellant's Grounds

8.1 The points raised by the Appellant are covered above, with the exception of the following.

8.2 Unfortunately the case was delayed due to COVID and staff changes. That said, there is no time limit for taking Listed Building enforcement action.

9.0 Conclusion

9.1 A breach of listed building control has taken place in respect of the extension the subject of the notice. The extension fails to conserve the listed building, which having regard to Section 16 of the PLBCA 90, the Framework and adopted policy, great weight must be given in the determination of the appeal. Further it is considered that there are no material listed building considerations which would outweigh the harm caused by the extension to the listed building. The requirements of the enforcement notice are the minimum necessary to remedy the injury to the listed building.

9.2 The Inspector is respectfully requested by the LPA to dismiss the appeal.

10.Suggested Conditions

10.1 The LPA is unable to recommend any conditions that would overcome the harm identified to the listed building by the development the subject of the enforcement notice.

Appendix 1.

Antrims barn site visit March 2019



Photograph also from March 2019 site visit demonstrating attachment



Photograph from Site visit December 2022



Photograph also from December 2022 site visit showing the base

