

5p E/11/0278/B - Unauthorised works for the alteration of a Grade II listed building by the removal of architectural/historical roof timbers and insertion of a dormer window without listed building consent or planning permission at 31 Fore Street, Hertford, SG14 1DJ

Parish: HERTFORD

Ward: HERTFORD CASTLE

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to commence legal proceedings under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and take enforcement action under Section 172 of the Town and Country Planning Act 1990, Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and any such further steps as may be required to secure the restoration of the roof of the listed building to its condition prior to the current unauthorised works, or to another approved scheme.

Reason why it is expedient to commence legal proceedings:

The unauthorised works to remove the rafters in both pitches of the front roof section of this designated heritage asset has caused harm to this Grade II listed designated heritage asset that cannot be rectified by any steps that could be imposed by a listed building enforcement notice.

Reason why it is expedient to issue a Listed Building enforcement notice:

1. The design, scale and mass of the front dormer window is overdominant in relation to the architectural and historic character of this Listed Building, which comprises a simple and traditional building form. The development is therefore contrary to Planning Policy Statement 5 - Planning for the Historic Environment and the accompanying Historic Environment Planning Practice Guide.

Reason why it is expedient to issue a planning enforcement notice:

2. The design, scale and mass of the front dormer window is overdominant in relation to the architectural and historic character of the building, and is unduly prominent in the streetscene to the detriment of the character and appearance of the Conservation Area. It is therefore contrary to Planning Policy Statement 5 - Planning for the Historic Environment and the accompanying Historic Environment Planning Practice Guide and to policies ENV1 and BH6 of the East Herts Local Plan Second Review April 2007.

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1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located on the north side of Fore Street about 10 metres west of its junction with Market Street.
- 1.2 This matter relates to works to the roof of this Grade II listed building that exceed those granted conditional planning permission and listed building consent in January 2009 for a new front dormer window at the site. Condition 5 of listed building consent granted under application number 3/08/1976/LB for a new dormer window required that “Notwithstanding the consent hereby granted, none of the timbers forming the structural frame of the building shall be cut, removed or otherwise altered without the prior consent in writing of the Local Planning Authority.”
- 1.3 Following a complaint from a member of the public that the works to the roof were not in accordance with the permission and consent mentioned above, the enforcement officer visited the site on 26th August 2011. Whilst there were no works taking place at that time, it was apparent from the street that the dormer window did not accord to the approved plans and it also appeared that the roof (which had been stripped of tiles) was constructed from new timber.
- 1.4 The enforcement officer wrote to both the owner of the property and to the builder undertaking the works to the listed building. He explained that the works did not appear to be in accordance with the approved plans and appeared to be contrary to the above mentioned condition. The letter also pointed out that unauthorised works to a listed building which adversely affect its character are an offence and the officer strongly suggested that works should cease.
- 1.5 Following a telephone call from the builder, the enforcement officer visited the site on 2nd September 2011, where works were continuing. At this time it was apparent that all the rafters had been removed from both the roof slopes in the front roof section (the roof is “M” shaped in section) and replaced with modern softwood timber. Some of the removed/cut timbers were stacked in the corner of the room with the new dormer window, whilst others had been cut up and used as decorative features on the plasterboarded interior of the dormer ceiling.
- 1.6 The builder had written to the Authority on 15th August 2011 with regard to the site. In that letter he stated that the roof was in a very poor condition and that one of the structural beams was beyond repair. He

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specifically acknowledged that listed building consent would be required for any repairs to the roof stating “I understand this is a listed building and consent is needed to carry out any repairs to this roof, as stated in no.5 of your decision notice.”

- 1.7 The Conservation Officer visited the site and formed the preliminary view that some of the timbers in the front pitch of the roof might need to be replaced or supported but that much of the rear pitch was capable of retention and, if necessary, the provision of additional support.
- 1.8 The planning case officer wrote to the builder on 23rd August 2011 informing him that the development would require planning permission and listed building consent and that whilst some repairs might be acceptable, this was the informal view of officers and would not prejudice any subsequent formal decision of the Council.
- 1.9 However by the time of the enforcement officer’s visit on 26th August 2011 the roof had been replaced.
- 1.10 Subsequent applications seeking to regularise the unauthorised works to the roof were refused under application numbers 3/11/1738/LB and 3/11/1737/FP
- 1.11 Photographs of the site will be available at the meeting.

2.0 Planning History:

3/93/0974/LB	Formation of fire escape door in rear yard wall	Approved with conditions
3/93/0973/FP	Formation of fire escape door in rear yard wall	Approved with conditions
3/97/0250/LB	Internal alterations to provide separate shop and living area. Reinstatement of attic windows.	Approved with conditions
3/97/0249/FP	Alterations to provide separate upper flat and ground floor shop	Approved with conditions
3/08/1975/FP	New front dormer window	Approved with conditions
3/08/1976/LB	New front dormer window	Approved with

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		conditions
3/11/1737/FP	Front and rear dormer windows	Refused
3/11/1738/LB	Front and rear dormer windows, internal and external alterations and repairs	Refused

3.0 Policy:

3.1 The relevant saved policies of the adopted local Plan in this matter is:-

ENV1 Design and Environmental Quality.
BH6 New developments in Conservation Areas.

4.0 Considerations:

- 4.1 It is the view of officers that the wholesale removal of the roof rafters and other timbers has harmed the special architectural and historic value of the building and that these works are not now capable of mitigation by any measures that can be required by a listed building enforcement notice.
- 4.2 It is also apparent that both the owner of the property and the builder who carried out the works were aware of the need for listed building consent for the works. Notwithstanding this, the works were carried out with a complete disregard for the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 to the extent that remedial measures are not now possible to mitigate the damage to parts of the building. As such, Officers consider that legal proceedings for the offence committed is appropriate in this case.
- 4.3 Furthermore the dormer window constructed exceeds the size of that granted permission and consent has a gable end as opposed to the approved hipped roof. Whilst the existing dormer window is not acceptable to the Council, and was refused permission/consent, it is the view of officers that alterations could be made to make it conform to the approved plans.

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4.4 A Listed Building Notice and/or planning enforcement notice will ensure that the existing unauthorised development is removed.

5.0 Recommendation:

5.1 It is therefore recommended that authorisation be given to commence legal proceedings under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and that authorisation also be given to issue and serve a Listed Building enforcement notice and/or planning enforcement notice requiring the dormer window to be removed and the roof restored to its condition prior to the unauthorised works or in accordance to previously approved plans.