



IMPORTANT

THIS COMMUNICATION AFFECTS YOUR PROPERTY

**LISTED BUILDING
ENFORCEMENT NOTICE**

UNAUTHORISED WORKS

**Ship And Pilot 9-10 Broad Street
Ilfracombe Devon EX34 9EE**

**PLANNING (LISTED BUILDING AND
CONSERVATION AREAS ACT 1990 (AS
AMENDED) ("THE ACT")**

Issued by: North Devon District Council ("The Council")
being the Local Planning Authority for the purposes of part 1 of the Act
in which the listed building described in paragraph one overleaf is
situate.

Enforcement reference number: 10563

1. **THIS IS A FORMAL NOTICE** which is issued by the Council in respect of the building because it appears to the Council that there has been a contravention of Section 9(1) of the Act with regard to work(s) that have been executed to the building. The Council consider it expedient to issue this notice, having regard to the effect of the works on the character of the building as one of special architectural or historic interest.

2. **THE LAND AFFECTED**

Ship And Pilot 9-10 Broad Street Ilfracombe Devon EX34 9EE ("the building") being a listed building as defined in Section 1 of the Act as shown edged red on the enclosed location plan.

("The Land")

3. **THE ALLEGED CONTRAVENTION**

It appears to the Council that the following works herein referred to as "the works" have been executed to the building:

The erection of an illuminated fascia sign on the front elevation

The works involve a contravention of Section 9(1) of the Act in that they are works for the alteration of the building in a manner which would affect its character as a building of special architectural or historic interest and have not been authorised pursuant to Section 8 of the Act as no listed building consent has been granted in respect thereof.

4. **WHEN YOU ARE REQUIRED TO ACT**

The Council require that the steps specified in paragraph 5 below be undertaken in order to bring the building to the state in which it would have been if the works had not been executed within the period of two months from the date when this notice takes effect.


5. **WHAT YOU ARE REQUIRED TO DO**

1. Remove the fascia sign and associated illumination from the front of the building
2. Repair & repaint any damage caused to the wall resulting from compliance with step 1
3. Remove any rubbish or debris resulting from compliance with steps 1 and 2

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 31 October 2019 ("the effective date")* unless an appeal is made against it beforehand.

Dated: 30 September 2019

Signed: 
Head of Place

On behalf of: North Devon District Council
Lynton House
Commercial Road
Barnstaple
Devon
EX31 1DG

EXTRACTS FROM THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)

Appeal against listed building enforcement notice

39(1) A person having an interest in the building to which a listed building enforcement notice relates or a occupier may appeal to the Secretary of State against the notice on any of the following grounds-

- (a) That the building is not of special architectural or historical interest;
- (b) that the matters alleged to constitute a contravention of Section 9(1) or (2) have not occurred;
- (c) that those matters (if they occurred) do not constitute such a contravention;
- (d) that works to the building were urgently necessary in the interest of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition or such consent which has been granted ought to be discharged, or different conditions substituted;
- (f) that copies of the notice were not served as required by Section 38(4);
- (g) 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;
- (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by a virtue of Section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) 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 of the conditions of the listed building consent had been complied with.

(2) An appeal under Section shall be made either-

- (a) by giving written notice of appeal to the Secretary of State before the date specified in the listed building enforcement notice as the date on which it is to take effect; or
- (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.

(3) Where such an appeal is brought the listed building enforcement notice shall [subject to any order under Section 65(3A)] be of no effect pending the final determination or the withdrawal of the appeal.

(4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing -

- (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and

(b) giving such further information as may be prescribed.

(5) if, where more than one ground is specified in the statement, the appellant does not give information under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any grounds to which the appellant has failed to give such information within that time.

(6) Where any person has appealed to the Secretary of State under this Section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(7) In this section "relevant occupier" means a person who -

- (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence in writing; and
- (b) continues so to occupy the building when the appeal is brought.

Execution of works required by listed building enforcement notice

42. (1) If any of the steps specified in the listed building enforcement notice have not been taken within the period for compliance with the notice, the authority may -

- (a) enter the land and take those steps, and
- (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a listed building enforcement notice has been served in respect of a building -

- (a) any expenses incurred by the owner or occupiers of the building for the purpose of complying with it, and
- (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely -

- (a) Section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
- (b) Section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);
- (c) Section 294 (limit on liabilities of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.

(4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under section (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection(1).

(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offense and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence where listed building enforcement notice not complied with

43 (1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.

(2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offense.

(3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

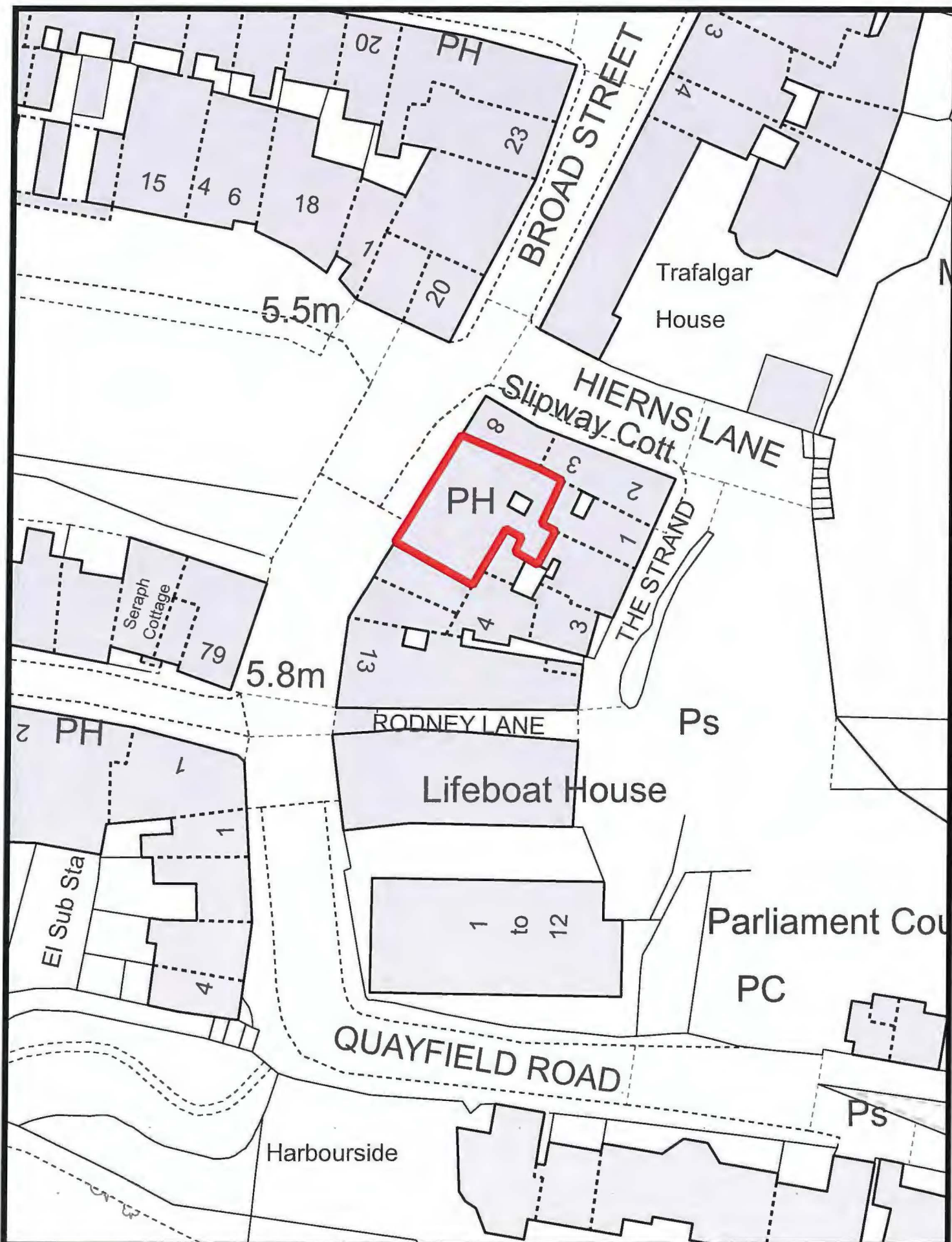
(4) In proceedings against any person for an offence under this section, it shall be a defence for him to show -

- (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or
- (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.

(5) A person guilty of an offence under this section shall be liable -

- (a) on summary conviction or on convicting on indictment to a fine.

(6) In determining the amount of any fine to be on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.



Lynton House, Commercial Road,
Barnstaple, EX31 1EA

**10563 - Ship and Pilot, 9-10 Broad Street,
Ilfracombe, EX34 9EE**

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Copy Supplied to:
Enforcement

Scale: 1:500 at A4
Date: September 2019

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
REFUSAL OF LISTED BUILDING CONSENT (EXECUTION OF WORKS)**

GM PLANNING SERVICES - MRS GILL MAKIN
ROUND HOUSE
COOKBURY
HOLSWORTHY
EX22 7YG

APPLICATION No: 64662

**DATE REGISTERED: 27-MAR-18
DECISION DATE: 22-MAY-18**

The North Devon District Council in pursuance of powers under the above mentioned Act hereby refuses consent to

**LISTED BUILDING APPLICATION FOR CONTINUED SITING OF 1 INTERNALLY
ILLUMINATED FASCIA SIGN AT SHIP AND PILOT 9-10 BROAD STREET
ILFRACOMBE**

For the following reasons:

(1) The signage would not be discreet, by contrast it would be dominant, a fact emphasised the illumination, bearing no relation to the character of the building or its Conservation Area setting in terms of its design or materials. Furthermore the use of a box profile aluminium design makes the signage appear alien and detrimental in appearance. Overall the advertisement appears incongruous and intrusive, negatively impacting on the amenity of the locality and the Listed Building on which it sits. This would therefore result in unacceptable visual amenity impacts to the Listed Building and its setting contrary to Policy ENV16 of the North Devon Local Plan, emerging Policy DM07 of the North Devon and Torridge Local Plan, it would not provide public benefits which outweigh the harm consistent with the test of paragraph 134 of the National Planning Policy Framework and as such it would also fail to meet the statutory duty outlined in Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

End of Decision.

Please remove any site notice relating to this application from your property as the decision has now been made.

Appeal Decisions

Site visit made on 13 May 2019

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2019

Appeal A Ref: APP/X1118/Y/18/3206046

Ship and Pilot, 9-10 Broad Street, Ilfracombe EX34 9EE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Joanna Minskip against the decision of North Devon District Council.
 - The application Ref 64662, dated 7 March 2018, was refused by notice dated 22 May 2018.
 - The works proposed are described as the "retrospective application for retention of signage".
-

Appeal B Ref: APP/X1118/H/18/3206248

Ship and Pilot, 9-10 Broad Street, Ilfracombe EX34 9EE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Joanna Minskip against the decision of North Devon District Council.
 - The application Ref 64663, dated 7 April 2018, was refused by notice dated 22 May 2018.
 - The advertisement proposed is described as "pub signage".
-

Decision

1. Appeal A: the appeal is dismissed.
2. Appeal B: the appeal is dismissed.

Procedural Matters

3. The Ship and Pilot is a grade II listed building within the Ilfracombe Conservation Area. As required by the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.
4. The original applications and the appeals were submitted by Mr Gary Down, although after October 2018 Mr Down no longer held the lease for the public house. The right of appeal is only given to the original applicant, although they can authorise another person to submit and conduct an appeal on their behalf. As the original applicant has confirmed in writing that the appeals are to proceed on behalf of Joanna Minskip, I have determined them on that basis.

5. The Council refused the planning application under the requirements of policies in the North Devon Local Plan (2006). In October 2018 the North Devon and Torridge Local Plan (LP) was adopted, and the Council have confirmed that the policies within the LP have superseded those in the 2006 Local Plan. Development plan policies are not determinative in listed building and advertisement cases. As policies have been brought to my attention, I have taken them into account as material considerations in the determination of the appeals, having regard to the most up-to-date policies as I am obliged to do.
6. As set out above, there are two appeals on the same site, one for listed building consent and the other for advertisement consent. They seek a fascia sign upon a public house. I have considered each proposal on its individual merits, although to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
7. It was apparent from my visit that the fascia sign had been erected. Notwithstanding this, I have determined the appeals on the basis of the submitted drawings, rather than what has occurred on site.

Main Issue

8. The main issue is whether the sign would preserve a listed building or its setting or any features of special architectural or historic interest which it possesses, and linked to that whether the sign would preserve or enhance the character or appearance of a conservation area.

Reasons

9. The Ship and Pilot public house is a 3 storey building with rooms in the roof that forms part of a terrace close to the harbour. Constructed from traditional materials of rendered walls under a slate roof, the size and prominence of the public house make it a distinctive building in the area. This and the ordered hierarchy of the building's front elevation, including the presence of several elegant multi-pane sash windows, is all part of the special interest of this listed building.
10. The dominance and importance of the harbour within the town is reflected in the number of high quality historic buildings that are concentrated around it. The area behind the harbour is characterised by narrow roads along which is a tight pattern of street frontage development, with both commercial and residential buildings present. The appeal property is one of several public houses in the area, reflecting the historic focus and development of the town upon the harbour and its associated industries. The concentration of so many high quality historic buildings near to the harbour, and the variety of uses they are put to, along with their construction from traditional materials, gives a vibrant and diverse character and appearance to the area. The public house makes a positive contribution towards the significance of the conservation area, with the openness of the car park / bus station that is opposite this building enhancing its prominence.
11. The illuminated box profile sign has been positioned above the historic sash windows of the first floor. Due to the size and modern style of the sign, it forms an incongruous addition upon the listed building. Whilst the appellant considers the dark colour blends into the building, given that the box projects away from the wall and is internally illuminated, the sign is overtly conspicuous

both upon the building and within the area. The size, boxed form and projection of the sign away from the façade, are all harmfully incongruous with the simple, elegant style and proportions of the front elevation of the building in which no one architectural element dominates.

12. Moreover, the sign has a modern style and is constructed from aluminium, neither of which harmonises nor reflects the traditional materials and form of the listed building, nor those of the nearby historic buildings. Although the appellant has referred to the illumination only being noticeable at night, the dominance of the sign upon the building is such that it would unacceptably draw the eye from some distance away.
13. My attention has been drawn to local support for the scheme and that there are a number of other illuminated signs within the conservation area. However, I do not have the full planning history of these properties before me, and in any case each scheme has to be treated on its own individual merits in accordance with the requirements of the current development plan and all other material considerations, as I have undertaken in this instance.
14. The appellant has also referred to the retention of the sign having a minimal effect on the fabric of the building. Nevertheless, details of the installation and the physical impact of such works upon the historic fabric have not been provided. In the absence of such information, I am unable to consider this matter further.
15. The National Planning Policy Framework (the Framework) requires that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether the harm would be substantial or less than substantial to its significance. Any harm or loss to the significance requires clear and convincing justification.
16. In this case the harm to the listed building and the conservation area would be less than substantial, given the extent of the scheme relative to the size of the public house and that of the conservation area. Notwithstanding this, less than substantial harm does not necessarily equate with less than substantial planning objection, especially where the statutory expectations of the Act have not been met. The appellant has referred to the signage having to be effective for the business. However, the impact of the sign upon the business has not been substantiated, nor has it been explained whether there would be any public benefits arising from its presence. As such no public benefits have been identified that would outweigh the harm I have found.
17. Taken as a whole the sign would neither preserve a listed building nor its setting and that of those nearby, nor preserve nor enhance the character and appearance of the conservation area. Consequently, the sign would fail to accord with LP Policies DM07 and ST15. These policies seek amongst other things, that great weight is given to preserving, conserving and enhancing heritage assets, thereby reflecting objectives of the Framework.

Other Matters

18. Finally, the appellant's concerns regarding the Council's handling of the applications and inconsistency of decision making are procedural matters.

Such concerns fall to be pursued by other means separate from the appeal process and are not for me to consider.

Conclusion

19. Thus, for the reasons given above and having considered all other matters raised, the appeals are dismissed.

J J Evans

INSPECTOR

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0303-444 5000
Email enquiries@pins.gsi.gov.uk

THIS IS IMPORTANT

If you want to appeal against this Listed Building enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us Listed Building enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the Listed Building enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/government/publications/listed-building-enforcement-notice-appeals-how-to-complete-your-appeal-form>

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the Listed Building enforcement notice.

We MUST receive this BEFORE the effective date on the Listed Building enforcement notice. This should immediately be followed by your completed appeal forms.