

Site History:

18/01983/LBC Listed Building Consent for installation of replacement windows on North elevation PERMIT

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR 18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM31 - Planning enforcement

DM27 – Development Affecting Heritage Assets

Reasons/Material Considerations:

Loram Cottage a grade II listed property. The property is a former Post Office and dates from the 18th century, which was modernised and extended in the mid twentieth century with a setback west end garage and porch

The building is two storey constructed from rendered cob on rubble plinth and rubble stone stack with early 19th brick chimney and thatch roof. The principle elevation has regular openings with standard double glazed uPVC windows identified in the listing to the first floor and more recently inserted without listed building consent, uPVC windows to the ground floor openings.

Listed Building Consent 18/01983/LBC was granted on 5th December 2018 for the replacement of the uPVC windows to the front elevation (north) and their replacement with timber flush fitting casement windows to the first floor and timber sliding sash windows to the ground floor.

At the time of the application it was identified that the rear (south) twentieth century single storey extension and elevation had uPVC replacement windows and sliding doors in place. It was negotiated with the owner that should they seek to replace the unauthorised uPVC window to the front (north) ground floor and include the replacement of the first floor uPVC windows, despite the fact that these were in place at the time the building was listed – but that the Local Planning Authority would then not find it expedient to take further enforcement action against the existing unauthorised doors and windows to the south elevation, as it was considered they did not harm the architectural or historic interest of the building.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) the Proposed Local Plan Review Policies 2013 - 2033.

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to

planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Reason

for action or remedy:

The Local Planning Authority shall not find it expedient to take further enforcement action against the existing unauthorised doors and windows to the south elevation, as it has been considered they do not harm the architectural or historic interest of the building.