

**Case No.** ENF/14/00128/LIS

**Grid Ref:** 283948 99738

**Address:**

The thatched terrace of dwellings, listed Grade II, and numbered 18,19 and 22 Exeter Road, Crediton.

**Alleged Breach:**

Without listed building consent the execution of Works for the alteration ("the Works") to the listed building namely the removal of timber windows and doors in the façade and inserting uPVC windows and a door.

**Recommendations:**

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 38, Planning (Listed Building and Conservation Areas) Act 1990, should grant authority for the issuing of Enforcement Notices in respect of the following breaches of planning control;

**Site Description:**

Numbers 16 to 20 (consecutive) and number 22 Exeter Road, Crediton, are a row of 6 adjoining urban cottages at the entrance to the town on the Exeter side. On 2 October 1992, they were entered onto the list of buildings of special architectural or historic interest. One of the reasons for the listing appears to be the mix of materials used in the construction, described as brick walls under a thatched roof which is unusual for Devon.

The dwellings are described in the list as:

"Row of 6 adjoining urban cottages. Probably circa 1840s with earlier origins. Front wall Flemish bond brick; end walls rendered; thatched roof hipped at left end, gabled at right end; 3 axial stacks and rear lateral stacks with brick shafts. Plan: Single-depth range. The 3 left hand cottages are double fronted with central entrance's (No.'s 16 to 18), No.'s 19 and 20 single fronted, No. 22 converted into double fronted plan from 2 single fronted cottages. Exterior: 2 storeys. Asymmetrical 2:2:2:1:1:3 window front. No.16 is entered from the left. The front has 2 ground floor C20 timber small-pane top hung casements; 2 first floor C19 to C20 2-light casements. No 17 has a central plank door, a C20 timber small pane top-hung casement to the left, a C19 sliding sash to the right with 4 panes per light. First floor windows are one 2-light and one 3-light C19 timber casements.

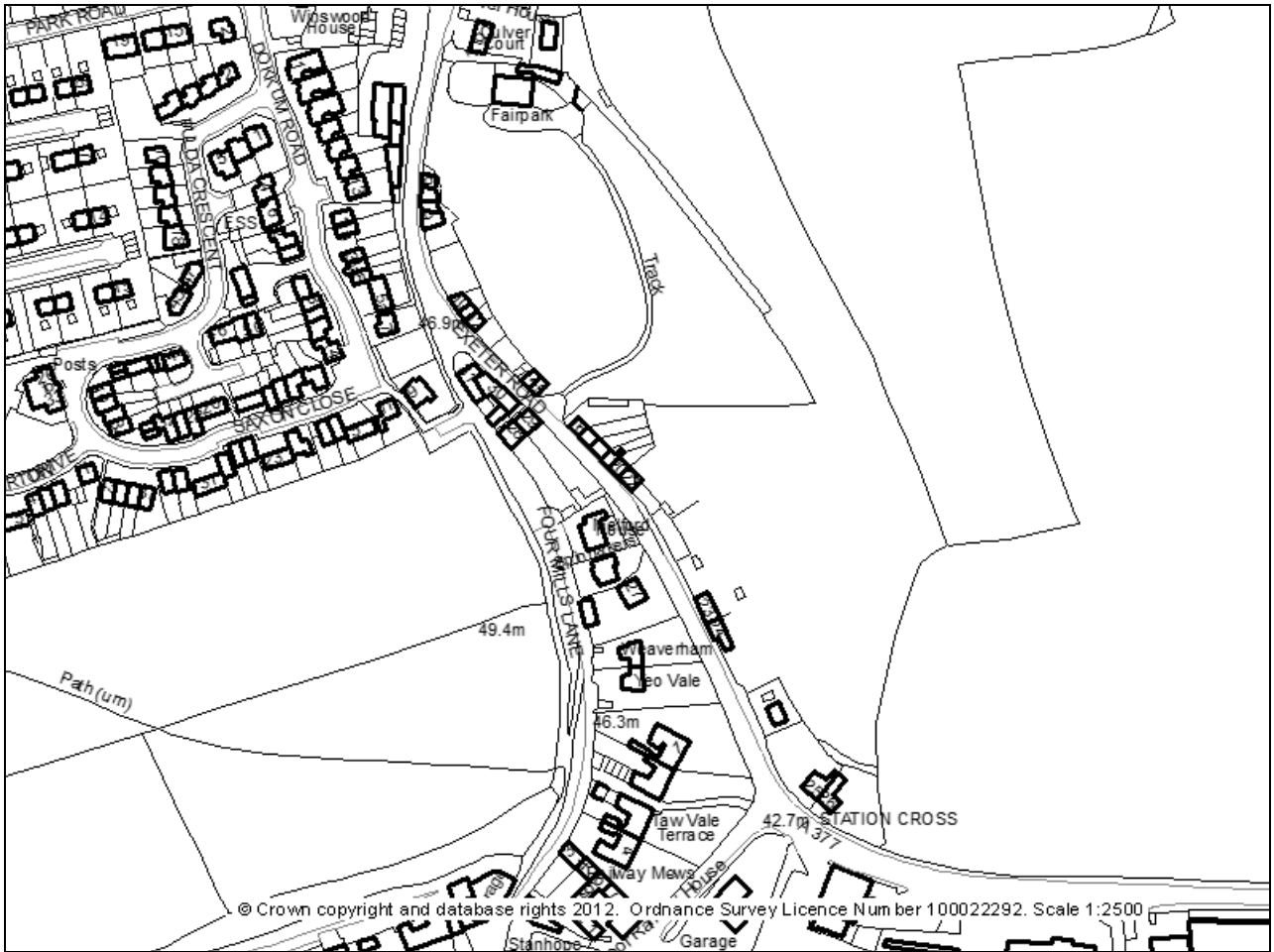
No.18 has a C20 boarded door in the centre with a glazed pane flanked by 4/4-pane sashes and 2 first floor top-hung timber casements.

No.'s 19 and 20 have half-glazed C20 doors towards the centre and each have a 16 pane horned sash alongside and a first floor 2 light casement.

No.22 has steps up to a 4-panel front door in the centre with the top panels glazed; a 16-pane sash to the left, a 2/2 pane sash to the right and 3 first floor 2-light casements, 2 panes per light. Blocked doorway on front indicates that the house was originally 2 smaller cottages. Interior: Not inspected but may retain features of interest.

The combination of brick and thatch is an unusual one in Devon. These houses are an important part of the entrance into the town from the Exeter side."

Site Plan:



**Site History:**  
**None relevant**

**Development Plan Policies:**  
National Planning Policy Framework

**Mid Devon Core Strategy (Local Plan 1)**

NPPF, Chapter 12: Conserving and Enhancing the Historic Environment. Of which paragraph 132 states: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting."

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

**Mid Devon Core Strategy (Local Plan 1)**

COR2 - Local Distinctiveness

Allocations and Infrastructure Development Plan

**Mid Devon Local Plan Part 3 (Development Management Policies)**

Policy DM27 - Development affecting heritage assets

Policy DM31 - Planning enforcement

**Reasons/Material Considerations:**

The Local Planning Authorities records show that in September 2014, it was evident that works were being undertaken, without listed building consent to number 22 Exeter Road. The unauthorised works included the removal of the timber windows and the entrance door from the façade and internal works to remove the staircase and open up a sealed fireplace. The records also indicates that other cottages in the group had been altered without consent.

A file note suggests that when interviewed and asked to explain their actions, the owners claimed ignorance of the protection granted by the listed status of the building and justified their action by saying their intention was to weather proof and improve the property which they had purchased two years earlier. The notes indicate the owners were advised the works required listed building consent and that a proposed course of action would be provided. However, it is not known what if any further advice was offered.

On 25 May 2016 a recent site visit was conducted with a view to ascertaining how many of the cottages had been altered without consent. Using the listing description as a guide, it was noted that both ground floor timber sash windows in number 18 had been removed and brown uPVC framed windows installed in their place; and that number 19 had had the timber sash window on the ground floor and the timber casement window on the first floor removed and white uPVC window installed in their place. The exterior of number 22 was also examined. It was noted that the uPVC framed windows and uPVC door seen in 2014 were still inserted in the façade at ground floor level.

An examination of the planning database revealed that listed building consent had not been granted for the alterations, (replacement windows and doors) to numbers 18, 19 or 22. An examination of the photographs of historic buildings held on 'Conservation' database, indicated that the timber sash windows at number 22 were in situ on 23 April 2009, but on that same date,

the timber windows on the ground and first floor at numbers 18 and 19, had already been removed and uPVC windows installed.

Officer opinion is that that the unauthorised works adversely affect the character of the listed building and should be reversed. It is also officer opinion that a long compliance period should be given to allow the owners' time to amass the funds necessary to have timber windows and in case of number 22, a door, manufactured to match those removed without consent.

On 30 June 2016, whilst photographing the existing timber joinery in numbers 16 and 20, the enforcement officer informally interviewed the owner of number 19. He advised that the windows installed without consent should be removed and timber windows installed in their place. In response, the occupier of number 19 advised the officer that the uPVC windows were installed prior to acquisition of the property 11 years previously and was grateful that a long compliance period was being considered for the reinstatement of the timber windows. That same day, the owners of numbers 18 and 22 Exeter Road were advised in writing, and the owner of number 19 Exeter Road reminded of the conversation, that the building was listed and that the uPVC windows - and in the case of number 22, the door - must be removed and replaced with timber windows and a door to match that which was installed at the time of listing.

The occupier of number 18 responded by letter, and in subsequent a telephone conversation advised the enforcement officer that the windows were installed prior to buying the house in 2008. He expressed understanding that the windows should be replaced but because the occupier was living on a pension, hoped the Local Planning Authority would give him plenty of time to obtain the funds necessary to have the windows made up.

On Monday 4 July, the owners of number 22 attended the council officers where they were interviewed informally. They apologised for the breach and asked that they be given a period of two to three years to fund the project.

Conservation of our heritage assets does not mean freezing a building in its present state for perpetuity, but it does mean that all alterations must be carefully justified beforehand, taking into account not only the effect of the works in the short term but also their consequences for the building, its character and its historic interest. Windows manufactured in uPVC, fail to match the appearance of old windows: they invariably have larger, heavier sections than timber windows; black rubber gaskets are visible around the glass; and fine glazing bars cannot be incorporated convincingly. As a consequence, uPVC fenestration and uPVC doors adversely affects the character as buildings of special architectural or historic interest.

The uPVC windows and uPVC door installed in the façade of numbers 22 and the uPVC windows installed in the façade of numbers 18 and 19 adversely affects the character of the row of six cottages, listed as numbers 16 to 20 (consecutive) and number 22 Exeter Road, as a building of special architectural or historic interest. Members are therefore requested to authorise the issue of three Listed Building Enforcement Notices directing that the unauthorised works at numbers 18, 19 and 22 are corrected.

The Conservation Officer has been consulted and agrees with both the recommended course of action to alleviate the harm and the suggested steps required by the three Listed Building Enforcement Notices.

In order that the occupiers / owners can fund the bespoke manufacture of the replacement windows and door, it is recommended that a compliance period of three years be given.

### **Human Rights and Equality Issues:**

The expediency of Enforcement action has been assessed with reference to guidance contained in 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).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

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.

### **Options for action or remedy:**

The list of options available is as follows:

#### **Take no action:**

This would not be appropriate as it would allow the unauthorised uPVC and windows and door to remain in situ adversely affecting the character of row of cottages.

**Invite an application to grant consent to regularise the change of use** - This again would not be appropriate for the reasons outlined in the body of the report.

## Listed Building Enforcement Notices:

### 1. Requirement of the Notice in the case of number 18 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent:

- (a) Remove the uPVC windows installed on either side of the entrance door at ground floor level.
- (a) Install 3/3 timber framed sliding sash windows, on the left hand side of the entrance door (when viewed externally), in the aperture vacated by the unauthorised uPVC window. The new windows to match as far as are reasonably practicable the plain design principle of the windows originally installed in 22 Exeter Road and shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (b) Install 2/2 timber framed sliding sash windows, on the right hand side of the entrance door (when viewed externally), in the aperture vacated by the unauthorised uPVC window. The new window to match as far as is reasonably practicable the design of the windows originally installed in 22 Exeter Road and shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (c) All new timber windows to be glazed with slim-light double glazing.

### 2. Requirement of the Notice in the case of number 19 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent,

- (d) Remove the uPVC window installed in the façade on the ground floor level.
- (e) Remove the uPVC window installed in the façade on the first floor level.
- (f) Install stone cills at the base of the window apertures on both the ground floor and first floor vacated by the unauthorised uPVC windows. The cills to match as far as is reasonably practicable the stone cills installed in the window aperture of number 20 Exeter Road.
- (g) Within the aperture vacated by the unauthorised uPVC window on the ground floor, install an 2/2 timber framed sliding sash window to match as far as is reasonably practicable the design of the windows originally installed in 22 Exeter Road as shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (h) Install a 2-light timber casement window, on the first floor in the aperture vacated by the unauthorised uPVC window. The new window to be painted white and set back so as to provide a 100mm external reveal.
- (i) All new timber windows to be glazed with slim-light double glazing.

### 3. Requirement of the Notice in the case of number 22 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent:

- (j) Remove the uPVC windows installed on either side of the entrance door at ground floor level.
- (k) Remove the uPVC entrance door installed in the façade.
- (l) Install stone cills at the base of the window apertures, on either side of the entrance door, vacated by the unauthorised uPVC windows. The cills to match as far as is reasonably practicable the stone cills installed in the window aperture of number 20 Exeter Road.
- (m) Install 2/2 timber framed sash windows, one on either side of the entrance door in the apertures vacated by the unauthorised uPVC windows. The new sash windows to be set back so as to provide a 100mm external reveal.
- (n) Install a timber four panel door with the top two panels glazed. The door to match as is reasonably practicable the door shown in Photograph marked KP2.
- (o) All new timber windows to be glazed with slim-light double glazing.

**Reasons for Issuing the Notice:**

The Works relate to a building included on the Statutory List of Buildings of Special architectural Interest (Grade II).

The Works constitute unsympathetic and inappropriate alterations which adversely affect the character and appearance of the building. Consequently, the Works are contrary to the advice contained in paragraphs 126 - 141 of the NPPF, Policy COR2 of the Core Strategy, and Policies DM27 & DM31 of the Mid Devon Local Plan Part 3

**Period for Compliance:**

Three (3) years after the notice takes effect.