

Case No. ENF/16/00247/LIS

Grid Ref: 295406 112406

Address:

12 St Andrew Street , Tiverton, Devon, EX16 6PH

Alleged Breach:

Listed building in a poor state of repair and illegal/unauthorised internal alterations.

Recommendations:

That the Legal Services Manager be authorised to take any appropriate legal action, including the service of a notice or notices seeking the repair and redecoration of the exterior of the listed building. In addition, in the event of a failure to comply with any notice served or refusal to regularise or correct any unauthorised works to the listed building, to authorise prosecution, direct action and/or authority to seek a court injunction.

In addition, in the event of the failure to provide access to the interior of the building, to authorise the seeking of a magistrate's warrant to ensure access is provided.

Site Description:

A two-storey terraced property of 19th century origin, Listed grade II in domestic use. The property is also situated in Tiverton conservation area.

Site Plan:



Site History:

08/00273/LBC	Listed Building Consent for external works	WITHDRAWN
08/01020/LBC	Listed Building Consent for external alterations	PERMIT

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

Mid Devon Local Plan Part 3 (Development Management Policies)

DM27 - Development affecting heritage assets

DM31 - Enforcement

Reasons/Material Considerations:

12 St Andrew Street is a Listed Building (grade II), lying in Tiverton Conservation Area. It is a 19th century terrace house with period detailing which could make a positive contribution to the street scene. The building is brick to the front (painted) and random rubble stone to the rear elevation with sash and casement timber windows.

The building has been in a poor condition for many years. In 2004 the owner was approached by your conservation officer on suspicion that unauthorised works were taking place to the interior of the building. A visit was arranged and the owner was encouraged to make an application for listed building consent for all works done and proposed to be done. After some negotiations and discussion an application was subsequently made in 2008 - consent was granted for works to windows, doors and other external repairs. However, other unauthorised works were not included in the application and it is thought that work continues to the interior of the building on a very ad hoc basis. Those repairs that were given permission in 2008 have also not been completed, although some have been started (repair and replacement of windows).

Despite repeated attempts at contact with the owner of the property, communication has now ceased. The building's condition is not considered to be improving at a reasonable pace and it is suspected that its condition is now having a detrimental effect on the church building next door. Scaffolding has been up on the rear elevation of the building for several years and this is considered to have a negative impact on the amenity and enjoyment of neighbour's land.

It is now your Officers opinion that a section 215 notice should be served, requiring the property to be repaired and redecorated and that further access is required to investigate suspected unauthorised works to the interior of the building.

Human Rights and Equality Issues:

Any enforcement action could be said to impact upon the land/property owner/occupier's human rights under Article 8 and Article 1 of the First Protocol of the Human Rights Act 1988.

In this case your Officers have considered the Act and circumstances and do not believe there to be any human rights implications but simply a requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 for the building to be preserved and kept in a reasonable state

of repair. Therefore the Local Planning Authority believes it is pursuing a legitimate aim in seeking compliance with the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 so as to prevent the demonstrable harm of the statutorily protected building and to protect the environment.

Options for action or remedy:

The list of options available is as follows:

Take no action:

1. This would not be the appropriate course of action. There is no justification for the Listed property to remain in its current condition and to impair the visual amenity of the area and character of the conservation area. To allow the current situation to persist is contrary to current planning policy and the Listed Building legislation.
2. Issue an urgent works notice: This is not considered appropriate at this time and would only be served where works are urgently necessary for the preservation of the Listed Building to make it wind/weather tight, to address structural concerns or prevent vandalism or theft.
3. Issue a Listed Building repairs notice. This is a precursor to compulsory purchase and not considered appropriate at this time.
4. Issue a Section 215 Notice seeking works to improve the condition and the appearance of the property. Authorise seeking of magistrate's warrant to gain access to interior of building to further investigate unauthorised works if required:

These are considered by your Officers to be the appropriate courses of action.

Reasons for Decision:

The statutorily protected listed property is in a poor state of repair and works have not been completed to ensure its preservation, contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework and Local Plan (Part 3) policy DM27. The amenity and character of the conservation area is adversely affected and works are required to improve the appearance and condition of the property and to prevent damage to neighbouring property. Unauthorised works to a Listed building are an offence and should be investigated and action taken where appropriate.

Steps Required:

1. Repair or replace (with same materials as existing) all rain water goods such as guttering and downpipes to both front and rear elevations, ensuring that the repaired or replaced guttering and downpipes efficiently disposes of surface water. Ensure all rainwater goods are appropriately decorated with preparatory undercoats and gloss finish coats.
2. Prior to repainting, clean and remove all flaking paint from front elevation; redecorate using an appropriate exterior paint system of undercoat and top coats.
3. Repair ground floor front elevation sash window OR replace with window consented under 08/01020/LBC with matching timber weighted six-over-six timber sash window to match those at first floor. Prime, undercoat and gloss top coats.
4. Repair front door surround by removing rotten timber and scarfing in new timber to match. Prior to redecoration, clean and remove all flaking paint; redecorate using an appropriate exterior paint system of undercoat and gloss topcoats.
5. Repair existing front door as in point 4, OR replace front door with door consented under 08/01020/LBC; redecorate using an appropriate exterior paint system of primer, undercoat and gloss top coats.

6. Clear all vegetation growth on the rear of the building and boundary walls and treat with systemic weed killer.
7. Repair windows and doors to rear elevation as required and redecorate using an appropriate exterior paint system of primer, undercoat and gloss topcoats.
8. Ensure lead flashings to roof where it abuts neighbouring properties are fully functional and if required, replace in leadwork if required.
9. Where required, repoint rear elevation random rubble stone by raking out defective joints and repoint using lime putty mortar or moderately hydraulic lime mortar with a brushed finish.
10. On completion of all works remove scaffolding from site and leave site in tidy condition.

Period for Compliance:

Four months from the date the Notice takes effect.