

TOWN AND COUNTRY PLANNING ACTS, 1971 TO 1974

BUILDINGS OF SPECIAL ARCHITECTURAL
OR HISTORIC INTEREST

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To: John Francis, Esq.
Kings Arms
King Street
Tring
Herts.

Partial demolition of chimney stack

at Kings Arms Public House, King Street,

Tring, Herts.

Description and
location of
proposed works


In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby grants listed building consent to the works described above and proposed by you in your application dated 5 July 1988 and received with sufficient particulars on 13 July 1988 and shown on the plan(s) accompanying such application subject to the following conditions:

1. The works to which this consent relates shall be begun within a period of five years commencing on the date of this notice.
2. That the chimney be rebuilt to match the other chimneys on the building within six months of the demolition of the existing chimney.

The reasons for the Council's decision to grant listed building consent for the works proposed subject to the above conditions are:

1. To comply with the provisions of Section 56A of the Town and Country Planning Act 1971.
2. To maintain the character of the Listed Building.

Dated.....29th.....day of.....September.....19 88

Signed.....

DesignationChief Planning Officer.....

NOTE

1. If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, he may, by notice served within six months of receipt of this notice, appeal to the Secretary of State for the Environment in accordance with part one Schedule 11 to the Town and Country Planning Act, 1971. The Secretary of State has power to allow a longer period for the giving of a notice of appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed works are in progress.
2. If listed building consent is refused, or granted subject to conditions whether by the local planning authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the council of the county district, in which the land is situated a listed building purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Section 190 of the Town and Country Planning Act, 1971.
3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 171 of the Town and Country Planning Act, 1971.

Attention is drawn to Section 55(2)(b) of the Act, the effect of which is that demolition may not be undertaken (despite the terms of the consent granted by the local planning authority) until notice of the proposal has been given to the Royal Commission on Historical Monuments, Fortress House, 23 Saville Row, London W1X 2HE, and the Commission subsequently have either been given reasonable access to the building for at least one month following the grant of consent, or have stated that they have completed their record of the building or that they do not wish to record it.



Departments of the Environment and Transport

Eastern Regional Office (Environment)

Heron House 49-51 Goldington Road Bedford MK40 3LL

Telex 82481

Facsimile 303

Telephone 0234 (Bedford) 83101 ext. 675

DEPARTMENT
DACORUM BOROUGH COUNCIL

CHIEF EXECUTIVE
OFFICER

12 APR 1990

File no. *elo 12/4*

Refer to

Cleared

J S Francis Esq
The King's Arms
King Street
TRING
Hertfordshire
HP23 6BE

OP	T.C.P.M.	D.P.	D.C.	B.C.	Ack.	Your reference
					Admin.	File
Received					Date	
12 APR 1990					APR 1990	
Comments					Our reference APP/A1910/E/89/804428	

Sir

TOWN AND COUNTRY PLANNING ACT 1971 - SCHEDULE 11

APPEAL BY MR J S FRANCIS

APPLICATION NO. 4/1348/88LB

1. I am directed by the Secretary of State for the Environment to refer to your appeal under paragraph 8 of Schedule 11 of the Town and Country Planning Act 1971 against the decision of Dacorum Borough Council to grant listed building consent for the partial demolition of a chimney stack at the King's Arms Public House, King Street, Tring, Hertfordshire, subject to conditions, including a condition:

"2. That the chimney will be rebuilt to match the other chimneys on the building within six months of the demolition of the existing chimney."

2. An Inspector has visited the site and has considered the written representations made in support of the appeal together with those of the Council. A copy of his report is appended to this letter.

3. The Secretary of State notes that your appeal is essentially against the condition imposed by the Council that, after demolition, the chimney should be rebuilt to match the other chimneys on the building, which you consider to be unreasonable and unnecessarily expensive. The building is Grade II listed and stands in the Tring Conservation Area, and there is no dispute between yourself and the Council that the chimney, the subject of the appeal, is in a poor state of repair and ought to be demolished. The Secretary of State takes the view, therefore, that the main issue in this appeal is whether it is reasonable to require the chimney stack, once demolished, to be rebuilt in a form and using materials so that it matches the other three chimneys on this listed building, which appear to be in their original form.

4. The Inspector is of the opinion that the appeal building is a remarkably well preserved example of its kind, that its form and symmetry makes it a focal point of this part of the Conservation Area, and that the four tall chimney stacks on the side and rear walls of the building strengthen its regularity of design and are a notable and dominant feature in all views of the building. He therefore considers it desirable that all four stacks should be preserved in their original form and at their original height. The Secretary of State accepts his Inspector's assessment, in paragraphs 5 and 7 of his report, that the chimney, the subject of the appeal, makes an important contribution to the listed building and to the Conservation Area.

5. As the Inspector points out, Section 56(3) of the Town and Country Planning Act 1971 as amended requires that special regard be paid to the desirability of preserving any features of special architectural or historic interest of a listed building or its

setting and the Department's Circular 8/87 advises that chimney stacks which are an important and dominant feature of a listed building should be retained even when no longer required, or reinstated. Moreover, Section 277(8) of the 1971 Act as amended requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The Secretary of State agrees with the Inspector that, with regard to the chimney the subject of this appeal, these considerations lead to the conclusion that, if the chimney were to be removed, it should be reinstated so as to match the other existing chimneys on the building.

6. The Secretary of State has considered whether, on the facts of this particular case, taking into account the practicality and cost of reinstating the chimney to its original form, it is reasonable to require that the chimney should be so reinstated in the event of its demolition or partial demolition. The Inspector, in paragraph 8 of his report, takes the view that the chimney should be capable of being rebuilt to its full height without undue difficulty. In paragraph 9, the Inspector considers that, on the evidence available, the additional cost of reinstating the chimney to its original form would not be so great as to be an unreasonable expense, particularly in view of the possibility of grant aid being available. The Secretary of State accepts his Inspector's appraisal of these points and concludes that the cost of fully reinstating the chimney would not be unreasonable when weighed against the contribution the restored chimney would make to the architectural and historic interest of the listed building and to the preservation and enhancement of the character and appearance of the Conservation Area.

7. For the reasons given above, the Secretary of State agrees with the Inspector's appraisal and hereby dismisses your appeal against the condition imposed by the Council that the chimney should be rebuilt to match the other chimneys on the building. He therefore grants listed building consent for the partial demolition of the redundant chimney stack at the King's Arms Public House, King Street, Tring, Hertfordshire in accordance with application no. 4/1348/88LB dated 5 July 1988, subject to the following conditions:-

- (i) The works hereby permitted shall be begun before the expiration of five years from the date of this letter.
- (ii) The chimney to which this consent relates shall be rebuilt to match the other three chimneys on the building within six months of the demolition of the aforesaid chimney.

8. This letter does not convey any approval or consent required under any enactment, bylaw, Order or Regulation other than Sections 55 and 56 of the Town and Country Planning Act 1971.

9. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

10. A copy of this letter is being sent to Dacorum Borough Council.

I am Sir
Your obedient Servant

R A SANDERSON
Authorised by the Secretary of State
to sign in that behalf

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

To the Right Honourable Christopher Patten MP
Secretary of State for the Environment

Sir

I have the honour to report that on 25 September 1989 I made an accompanied site visit into an appeal by Mr J S Francis made under Schedule 11 to the Town and Country Planning Act 1971 against the granting of listed building consent subject to conditions by the Dacorum Borough Council for the partial demolition of a chimney stack, Kings Arms Public House, King Street, Tring, Hertfordshire. The disputed condition states:-

"2. That the chimney will be rebuilt to match the other chimneys on the building within six months of the demolition of the existing chimney."

1. The building which is the subject of this appeal was added to a list of buildings of special architectural or historic interest in grade II. The list description is as follows:

"Public House. Mid C19. Stucco painted, and steep hipped slate roof. A 2-storeys and attics square, classical urban pub, facing W on a peninsular at a junction. Symmetrical 3 windows wide W front with plinth, corner pilasters, caps, eaves bond, moulded architraves and bracketed cills to recessed sash windows with 6/6 panes, and projecting porch with step, Tuscan columns, full entablature and blocking course. Half glazed door with side-lights. Similar pilastered 3-windows wide elevations to N and S sides and side-wall chimneys rising above the eaves, where the first floor window from the front corner on both floors is formed through the chimney stack with a fireplace inside under each window. Panelled shutters to deep internal reveals. Pine panelled doors and joinery stripped."

2. This report contains a description of the appeal building and the surrounding conservation area and my appraisal of the likely impact of the proposed demolition if the disputed condition is set aside. (A list of persons present at the site visit follows.)

THE APPEAL BUILDING AND ITS AREA

3. The appeal building comprises a purpose built mid-nineteenth century Public House. It was erected at the time of the development of the railway. The Public House is symmetrical in design, and in a debased classical style. The description in the statutory list describes most of its features, but omits the two symmetrically placed chimney stacks that rise off the rear wall. These chimneys,

like those on the side wall, are some 3m in height above eaves level, each chimney having three pots. Their height makes them a prominent feature of this symmetrical building. The upper part of the appeal chimney has been rebuilt in modern brickwork, and has modern chimney pots.

4. The surrounding dwellings in the Conservation Area, including those on the aforementioned peninsular site, comprise two storey brick built terrace houses under tiled and slated roofs. A few of the original windows of these terrace houses survive. These terraces are set on a somewhat irregular gridiron of residential streets. The Conservation Area hence comprises a consistent development of terraced houses of the early Victorian era, in which the Kings Arms Public House forms a major focus that may be seen from all sides. One side of the peninsula in which it is set is bounded by King Street, which by way of a double bend, then leads away from the Public House to the west. This part of King Street is aligned upon the porch. In views gained of the main facade from the west along King Street, the four large chimney stacks are particularly dominant.

APPRAISAL

5. Section 56(3) of the Town and Country Planning Act 1971 requires that special regard be paid to the desirability of preserving any features of special architectural or historic interest of a listed building. The appeal building represents a remarkably well preserved early Victorian public house. Although it is of a somewhat debased classical style, its symmetry lends to it an architectural quality that distinguishes it from the terraces that surround it, and forms a focus in the group that they comprise. The tall chimney stacks on the side and rear walls strengthen the regularity of design, and they are a notable and dominant feature in all views of the building. Hence I have concluded that they contribute considerably towards its architectural character. I therefore regard it as being desirable that these stacks are preserved in their original form, and at their original height. To set aside the disputed condition, and permit one of them to be rebuilt to a lower height, would, to my mind, severely disrupt the symmetry of the Public House, particularly when it is viewed from the western end of King Street.

6. Paragraph 6 of Annex iv to Appendix iv of Government Circular 8/87 advises that chimney stacks are formal and functional features of the roofscape. Hence they should be retained where no longer required, or reinstated, particularly where they are a dominant feature. To my mind, the chimney stack that is the subject of this appeal is a formal and dominant feature of the roofscape. Hence to demolish it without rebuilding it in its original mid-19th century form contravenes the advice contained in Circular 8/87. Further, to rebuild it provides the opportunity to reinstate its original form.

7. Section 277(8) of the Town and Country Planning Act 1971 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area when exercising powers under this Act. The character of this part of the Conservation Area is one of attractive, small, early Victorian terraces, within which the Kings Arms forms a focus. Hence it is an attractive and well preserved mid 19th century environment. I therefore consider that it is highly desirable that the character and appearance of this part of the Conservation Area are preserved, and where possible, enhanced. The appeal building's role as a focus within the Conservation Area depends upon its

architectural form, and particularly its impressive symmetry, to which the four chimney stacks make a major contribution. For the disputed chimney stack to be rebuilt to a lower level would, as noted earlier, disrupt the symmetry of this building. I consider that this would fail to preserve both its appearance, and that of the Conservation Area. Further, the disputed chimney has previously been rebuilt using modern bricks and modern chimney pots. Hence the opportunity exists to rebuild it to its original design, and with matching chimney pots. This would enhance the appearance of both the building and, due to the prominence of this chimney stack, the Conservation Area.

8. The appellant considers that the chimney is unsafe, and that due to there being no adequate structural support below the chimney breast, it is undesirable to rebuild it. I observed that the chimney has leant over, producing a banana shape which is characteristic of a failure due to a sulphate attack of the brickwork. Hence there is no alternative to demolishing it and rebuilding it. I did not observe significant evidence that the failure was due to the removal of the stack at a lower level. The chimney should therefore be capable of being rebuilt to its full height without undue difficulty. If on opening up the structure, the failure should be found to be due to the loss of the chimney breast, this structural problem is capable of being remedied.

9. The appellant is concerned about the cost of reinstating the chimney, but does not indicate the comparative costs. The major cost of demolishing the chimney and rebuilding it is scaffolding. As a full height scaffold would be required whether or not it is rebuilt to its full height, this major cost would not be avoided by setting aside the disputed condition. The cost of reinstating the chimney would undoubtedly be greater than the cost of rebuilding it at a lower level. However, the Council have indicated that grant aid might be available to help offset the additional cost of rebuilding. Even if a Historic Buildings Grant were not to be made available, I consider that the cost of fully reinstating the chimney is unlikely to be so much greater than rebuilding it at a lower level as to appear to be unreasonable when weighed against the importance of the chimney with respect to both the listed building and the Conservation Area.

I have the honour to be
Sir
Your obedient Servant,

Geoffrey S. S. Lane

GEOFFREY S S LANE, DiplArch DiplTP RIBA MRTPI
Inspector

October 1989

Persons present at the site visit:

Mr J S Francis -The Appellant

Mr N C Gibbs -Dacorum Borough Council



Under the provision of section 242 and 245 of the Town and Country Planning Act 1971, a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within six weeks from the date when the decision is given.

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State has exceeded his powers); or
2. that any of "the relevant requirements" have not been complied with and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act; they are the requirements of that Act and the Tribunals and Inquiries Act 1971, or any enactment replaced thereby, and the requirements of any orders, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI 1987 No 701).

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.