

**IMPORTANT-THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**LISTED BUILDING ENFORCEMENT NOTICE**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)**

**ENFORCEMENT NOTICE – UNAUTHORISED WORKS TO A GRADE II LISTED BUILDING & CONSERVATION AREA**

**1. ENFORCEMENT NOTICE**

**THIS NOTICE** is issued by South Lakeland District Council ("the Council") because it appears to them that there has been a contravention of Section 7 of the above act, at the Land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

**2. THE LAND TO WHICH THE NOTICE RELATES:**

Flats 1, 2 & 3 (First & second floor flats) Gillam House Gillam Yard ULVERSTON LA12 7LT hereafter referred to as "the Land" shown edged red for identification purposes only on the Plan attached to this Notice.

**3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:**

It appears to the Council Local Planning Authority that the following works ("the Works") have been executed to the Building in contravention of section 9(1) of the Act;

3.1 Without planning permission and listed building consent:

- I. Removal of 8 wooden windows on the first and second floor and replaced with white uPVC windows.

**4. REASONS FOR ISSUING THIS NOTICE:**

The development is contrary to the provisions of Policies CS1.1, CS1.2, CS8.2, CS8.6 and CS8.10 of the South Lakeland Core Strategy; Policies DM1, DM2 and DM3 of the Local Plan Development Management Policies and Section 2, 12 and 16 of the National Planning Policy Framework.

- South Lakeland Local Development Framework – Core Strategy (2010)
  - CS1.1 – Sustainable Development Principles
  - CS1.2 - The Development Strategy
  - CS8.2 – Protection and Enhancement of Landscape and Settlement Character
  - CS8.6 – Historic Environment

- CS8.10 – Design
- Local Plan Development Management Policies (March 2019)
  - Policy DM1 – General Requirements for all development
  - Policy DM2 – Achieving Sustainable High Quality Design
  - Policy DM3 – Historic Environment
- National Planning Policy Framework
  - Section 2 – Achieving Sustainable Development
  - Section 12 – Achieving well-designed places
  - Section 16 – Conserving and Enhancing the Historic Environment

It appears to the Council that the unconsented works, has had the following impact:

- The works lead to substantial harm to this heritage asset and no public benefits have been identified that would outweigh this substantial level of harm.

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

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

The Council requires the specified steps listed below to be taken to remove the effect of the development on the Land which were carried out without planning permission.

- (A) Permanently remove the 8 uPVC windows on the first and second floor within the red line boundary on the attached plan.
- (B) Replace the 8 uPVC windows with copies of the original wooden windows with single-glazed panes.

#### **6. TIME FOR COMPLIANCE**

The periods for compliance with the steps set out in paragraph 5 are:

13 weeks from the date this Notice takes effect.

#### **7. WHEN THIS NOTICE TAKES EFFECT:**

This Notice takes effect on the 19<sup>th</sup> October 2022 unless an appeal is made against it beforehand.

Signed: N.Howard

Principal Specialist - Place

Date: 7<sup>th</sup> September 2022

On behalf of:- South Lakeland District Council  
South Lakeland House  
Lowther Street  
KENDAL  
Cumbria  
LA9 4UQ

Nominated officer: Eleanor Rawsthorne (Specialist Enforcement Level 2)

Telephone number: 01539 793476

## **ANNEX**

SOUTH LAKELAND DISTRICT COUNCIL has issued an enforcement notice relating to the Flats 1, 2 & 3 (First & second floor flats) Gillam House Gillam Yard ULVERSTON LA12 7LT shown edged red on the attached Plan and you are served with a copy of that Notice as you have an interest in the Land. Copies of the Notice have also been served on the parties listed at the end of this Annex.

### **YOUR RIGHT OF APPEAL**

You can appeal against this Enforcement Notice, but any appeal must be received by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be received by the Planning Inspectorate) before the date specified in paragraph 7 of the Notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

### **GROUND OF APPEAL**

The grounds of appeal are set out in Section 39 of the Planning (Listed Building and Conservation Areas) Act 1990. You may appeal on one or more of the following grounds that:

- a) that the building is not of special architectural or historic 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 interests 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 of 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 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 and conditions of the listed building consent had been complied with.

Not all of these grounds may be relevant to you.

## **PLANNING APPLICATION FEE**

If you wish to appeal on ground E of Section 39 of the Planning (Listed Building and Conservation Areas) Act 1990 this is the equivalent of applying for listed building consent for the development alleged in the notice and you will have to pay a fee of £407. You should pay the fee to SOUTH LAKELAND DISTRICT COUNCIL. If the fee is not paid then that ground of appeal will not be valid.

## **STATEMENT ON GROUNDS OF APPEAL**

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

## **STATUTORY PROVISIONS**

A copy of sections 38, 39, 40, 42, 43, 44 & 46 of the Planning (Listed Building and Conservation Areas) Act 1990 is attached for your information.

## **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the Notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

## **RECIPIENTS OF THE ENFORCEMENT NOTICE:**

The names and addresses of all persons who were served with the Notice:

Ms Eleanor Fisher  
Great Head House  
Priory Road  
Ulverston  
Cumbria  
LA12 9RX

Miss Mandy Williamson

Flat 1

Gillam House

Gillam Yard

ULVERSTON

LA12 7LT

Mr Jan Bitner

Flat 2

Gillam House

Gillam Yard

ULVERSTON

LA12 7LT

Owner / Occupier

Flat 3

Gillam House

Gillam Yard


ULVERSTON

LA12 7LT



**Plan 1**

First and second floor flats, 51 Market Street, ULVERSTON, LA12 7LT


 N Scale: 1:1250

© Crown copyright. All rights reserved. South Lakeland District Council Licence No: 100024277

