

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**  
**PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990,**  
**SECTION 38**

<b>LISTED BUILDING ENFORCEMENT NOTICE</b>
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**ISSUED BY: The Council of the City of Newcastle upon Tyne ("the Council")**

1. The Council is the local planning authority for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") for the area containing the following building: Marco Polo, 33-37 Dean Street, Newcastle upon Tyne, NE1 1PQ ("the Building") shown edged with a red line on the attached plan.
2. This Building is included within a list of buildings of special architectural or historic interests compiled or approved by the Secretary of State under section 1 of the Act.
3. This Notice is issued by the Council because it appears to them that there has been a breach of listed building consent at the Building under section 38 of the Act. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

**4. BREACH OF THE LISTED BUILDING ACT**

Without listed building consent the erection of three non- illuminated hanging signs, one internally illuminated projecting sign to the front elevation and the fixing of one internally illuminated menu board to the front elevation on Dean Street ("the Works")

It appears to the Council that the Works have been executed to the Building and are such as to constitute a contravention of section 9(1) of the Act.

**5. REASONS FOR ISSUING THIS NOTICE**

The design, size, materials and illumination used and the overall appearance of the Works are considered to have a detrimental impact upon the historic integrity and visual amenity of a Grade II Listed Building and the character and appearance of the Central Conservation Area contrary to saved Policies EN1.1 and C2 of the Unitary Development Plan, Policies CS15 and UC14 of Planning for the Future: Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne, Newcastle City Council Grainger Town shop front design guide and the National Planning Policy Framework, National Planning Practice Guidance, Newcastle City Council Planning Enforcement Protocol.

The Council considers that it is expedient to issue this notice having regard to the effect of the Works on the character of the Building as one of special architectural and historic interest.

**6. WHAT YOU ARE REQUIRED TO DO**

1. Remove the three hanging signs from the front elevation.
2. Remove the illuminated projecting sign from the front elevation.
3. Remove the illuminated menu board from the front elevation.
4. Repair any underlying damage to the stone work following compliance of requirements points 2 and 3 above, using a mortar mix comprising:
  - i. Natural Hydraulic Lime (strength 3.5)
  - ii. 2.5 parts washed, well graded sharp sand

All sand to be selected to match the grain, coarseness and colour of the existing stone.

5. Repair any underlying damage to the woodwork following compliance of requirements 1 above, by filling holes with wood filler and sanding to remove the excess to match existing and repaint to match the fascia.

**7. TIME FOR COMPLIANCE**

2 MONTHS after this notice takes effect.

**8. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 12 July 2018 unless an appeal is made against it beforehand.

Dated: 7 June 2018

[Date of issue]

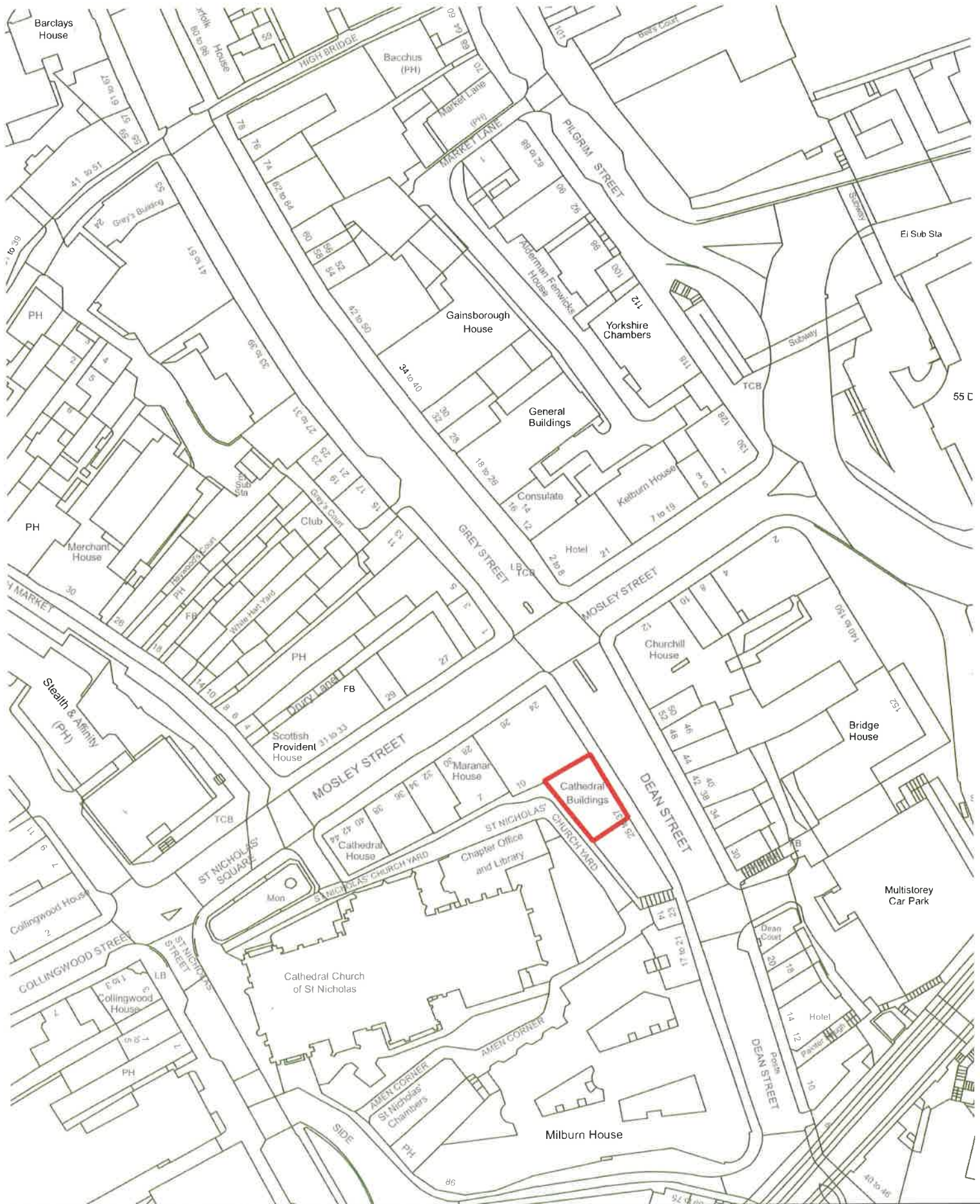
Signed:.....

[Council's authorised officer]

J R Softly

Assistant Director, Legal Services

On behalf of the Council of the City of Newcastle upon Tyne



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## 33 - 37 Dean Street, Newcastle upon Tyne, NE1 1PQ

Newcastle  
 City Council

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2014/0213/LBCENF





## ANNEX

### EXPLANATORY NOTE

#### YOUR RIGHT OF APPEAL

You can appeal against this Notice, but you must ensure that any appeal is sent in time to be delivered by post/electronic transmission to the Secretary of State (at the Planning Inspectorate) **before** the date specified in paragraph 8 of the Notice. An information sheet from the Planning Inspectorate is enclosed which also contains important information about appealing against this Notice and how appeal forms can be obtained and submitted.

Under section 39(1) of the Act, you may appeal on one or more of the following grounds:-

- (a) for a listed building – that the building is not of special or architectural or historic interest;  
  
for a building within a conservation area – that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated;
- (b) that the matters alleged to constitute a contravention of section 9(1) or (2) of the Act have not occurred;
- (c) that those matters (if they occurred) do not constitute such a contravention;
- (d) that the works to the building were urgently necessary in the interest 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) of the Act;
- (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c) of the Act, that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out; (Note: It should be noted that its condition before the works were carried out refers to its former authorised condition, which is its condition when listed, subject to any listed building consents subsequently granted. It does not refer to its physical condition, for example in terms of repair);
- (h) that the period specified in the notice as the period within which any steps required by the notice 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 the purpose. (Note: this ground cannot be pleaded at the same times as grounds (j) and/or (k) – see note below);
- (j) that the steps required to be taken by virtue of section 38(2)(b) of the Act exceed what is necessary to alleviate the effect of the works executed to the building. (Note: this ground is concerned with alleviation, not with restoration and cannot be pleaded at the same time as grounds (i) and/or (k)- see note below); and
- (k) that steps required to be taken by virtue of section 38(2)(c) of the Act 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 (Note: this ground cannot be pleaded at the same time as grounds (i) and/or (j) – see note below).

Note: Not all of these grounds may be relevant to you.

Please also note that grounds (i), (j) and (k) are mutually exclusive and cannot be pleaded simultaneously although any one of them can be pleaded at the same time as ground (g).

Ground (i) should be pleaded if the notice has been served under section 38(2)(a) of the Act and relates only to restoration.

Ground (j) should be pleaded if the notice requires alleviation of the works and it has been issued under section 38(2)(b) of the Act.

Ground (k) should be pleaded if the notice has been issued under section 38(2)(c) of the Act and requires bringing the building to the state it would have been if the terms and conditions of any Listed Building Consent had been complied with.

If you decide to appeal, when you submit it, 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 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.

## **PARTIES SERVED WITH THE ENFORCEMENT NOTICE**

The parties served with a copy of the Notice are as follows:

Minel Venues LLP, Cathedral Buildings, Dean Street, Newcastle upon Tyne, NE1 1PG

Lloyds Bank plc, Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton, WV9 5HZ

Minel Leisure Limited, Minel, 3<sup>rd</sup> Floor Cathedral Buildings, Dean Street, Newcastle upon Tyne, NE1 1PG

The Occupier, 33-37 Dean Street, Newcastle upon Tyne, NE1 1PG

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

If you do not appeal against this Notice, it will take effect on the date specified in paragraph 8 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[s] specified in paragraph 7 of the Notice. Failure to comply with a Notice which has taken effect can result in prosecution and/or remedial action by the Council.

