

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

**LISTED BUILDING ENFORCEMENT NOTICE**

**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: 76 Grainger Street, Newcastle upon Tyne, NE1 5QJ ("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 fixing and display of an illuminated fascia sign attached to bars on stonework at fascia level, a double sided 'Payzone' projecting sign attached to the fabric of the Building, Vinyls attached to the windows of the Building, the display of an illuminated moving sign in the window of the Building and the painting of the entrance and roller shutter of the Building. ("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 illuminated fascia sign attached to bars a fascia level, double sided 'PAYZONE' projecting sign, vinyls attached to the windows of the building, display of illuminated moving sign in the window of the Building, the painting of the entrance and roller shutter of the Building are by virtue of scale and design unduly prominent and incongruous features which have a detrimental impact on the Grade II\* listed building, and detract from the character and appearance of the Central Conservation Area. The Works therefore fail to accord with Policies DM15, DM20 and DM21 of the Newcastle upon Tyne, Development and Allocations Plan 2015-2030, Policies CS15, UC12, UC13 and UC14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030, The National Planning Policy Framework, Circular 10/97: Enforcing Planning Control and Newcastle City Council's Grainger Town Shopfront Design Guide.

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**

- I. Remove the illuminated fascia sign reading "McGrains", in its entirety including all fixtures and fittings.
- II. Remove the double-sided projecting sign attached to the fabric of the Building
- III. Remove all vinyls attached to the window of the Building
- IV. Remove the moving sign from the Window of the Building
- V. Repaint the shopfront and shutters to form a solid colour with a paint colour approved by the Council's Planning Department.
- VI. Following compliance with I and II above, contact the Council's Planning Department with regard to discussing the repair of any remedial damage that may have occurred due to the erection of the unauthorised signage.

**7. TIME FOR COMPLIANCE**

TWO (2) MONTHS after this notice takes effect.

**8. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 20 August 2021 unless an appeal is made against it beforehand.

Dated: 16 July 2021

[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

**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:

The Occupier, 76 Grainger Street, Newcastle upon Tyne, NE1 5JQ

Markbourn Limited- 20-22 Second Avenue, Heaton, Newcastle upon Tyne, NE6 5XS

Lloyds Bank plc – Dept No 3282 of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton, WV9 5HZ

Regis UK Limited – 1<sup>st</sup> Floor, Lynchgate House, Cannon park Shopping Centre, Coventry, CV4 7EH

Retail Plus General Partner Limited – 21 Palmer Street, London, SW1H 0AD

Retail Plus Nominee Limited – 21 Palmer Street, London, SW1H 0AD

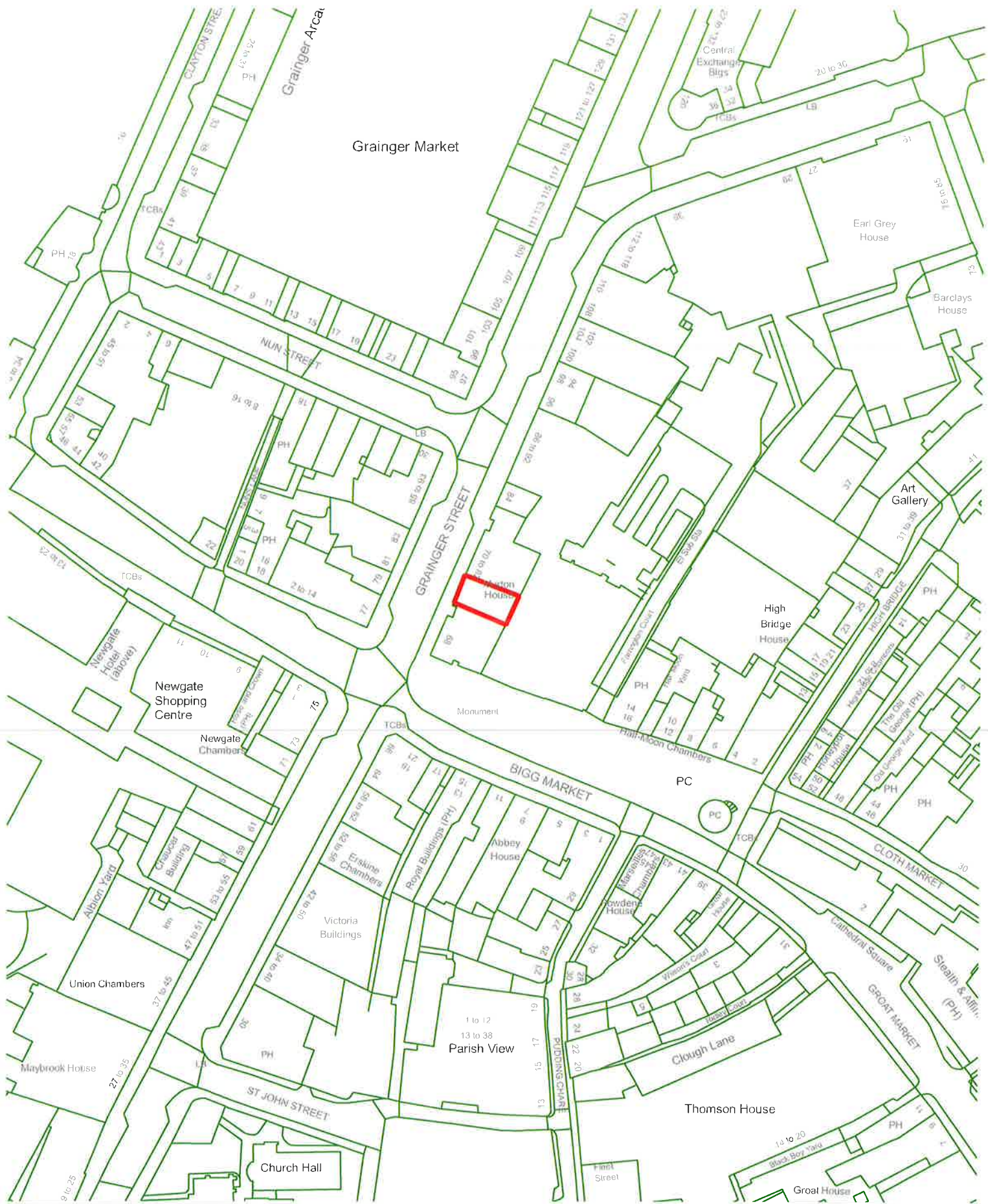
HSBC Bank plc – 8 Canada Square, London, E14 5HQ

**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.







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McGrains  
 76 Grainger Street  
 Newcastle upon Tyne  
 NE1 5JQ

2019/0366/LBCENF

Newcastle  
 City Council 



