

# Enforcement Notice Appeal

Town and Country Planning Act 1990 – Section 174

## Appeal against Winchester City Council Enforcement Notice dated 6 May, 2022.

The White House Cottage, Botley Road, Shedfield, Hants.  
SO32 2HN.

On behalf of Mr. Christopher Collins.

Date: 31 May 2022

| Pegasus Ref: P222-1219

PINS Ref:

| LPA Ref: 22/00037/COU

Author: Jeremy Gardiner

---



## Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
Final	31.05.22	JG	JG	



# Contents

1. Introduction
2. Background
3. Justification for appeal under s174 Ground (f)



# Appellant's Statement of Case

## 1. Introduction

Pegasus Group is instructed by Mr. Christopher Collins to appeal against the Enforcement Notice dated 6 May, 2022 served by Winchester City Council concerning The White House Cottage, Botley Road, Shedfield, Hampshire SO32 2HN. A copy of that Enforcement Notice accompanies this appeal.

The appeal is made under Ground (f) of Section 174 of the 1990 Act, being:

*"that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach."*

The alleged breach of planning control set out in the Notice is:

*"Without planning permission the material change of use of the building shown hatched green on the attached plan B to use as a single dwelling house."*

The steps required to be taken to remedy the alleged breach are:

*"(i) Cease the use of the building shown hatched green on the attached plan ("Plan B") for residential occupation.*

*(ii) Remove from the building all fixtures, fittings and alterations that have been installed to facilitate the unauthorised use in (i).*

*(iii) Remove the fence in the approximate location marked between A and B with a black line on the attached plan ("Plan B").*

*(iv) Permanently remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (iii)."*

The appellant submits that these steps exceed what is reasonably necessary to remedy the alleged breach of planning control for reasons explained below.

## 2. Background

The appellant is the freehold owner of The Red House and The White House Cottage which he purchased together as a single property title (see Plans A and B appended to the Enforcement Notice which confirm the location of The Red House). The Red House is the principal dwelling,



and the White House Cottage was originally constructed (perhaps in Victorian times) as a coach-house with groom's accommodation being ancillary in use to The Red House.

The appellant let The Red House under an Assured Shorthold Tenancy. The tenant family expressed interest in extending their tenancy to include the residential occupation of the coach-house (now The White House Cottage) for members of their extended family. The appellant therefore refurbished the interior of the building to provide modernised 3 bedrooled residential accommodation during 2021 to facilitate this. The tenant family in The Red House then fell into arrears with their rent and moved out. Having incurred the cost of refurbishment, the appellant then let The White House under a separate tenancy agreement, at which point the breach of planning control occurred (prompting the serving of the Enforcement Notice), but that breach only took place for a short period because those tenants have vacated The White House such that the breach is no longer taking place. The appellant has also re-let The Red House and, at the time of writing, that tenancy is being extended to also include The White House Cottage as ancillary domestic accommodation to The Red House, thereby restoring its ancillary function in compliance with the Enforcement Notice. A copy of this new tenancy agreement will be provided as soon as it is available.

### **3. Justification for appeal under s174 Ground (f)**

Step (i) requires the residential occupation of the building to cease. This covers all residential occupation – that is to say, both its occupation as a separate residential dwelling house and its residential occupation as ancillary to, and as part of the enjoyment of, the residential occupation of The Red House. As an ancillary building within the curtilage of The Red House, the residential use of The White House Cottage (either by persons connected to the tenants of The Red House or by their guests) does not constitute a breach of planning control. Thus Step 1 goes beyond what is reasonably necessary to remedy the breach.

Step (ii) requires all residential fixtures, fittings and alterations to be removed. This exceeds what is reasonably necessary because the residential use of The White House Cottage as ancillary to the residential occupation of The Red House does not constitute a breach of planning control. This was its original function. The works undertaken to refurbish the interior of the building do not require planning permission. It is only the use of the building as a separate dwelling house which would constitute a breach of planning control, so there should not be a requirement to remove the domestic fixtures, fittings and alterations.

Step (iii) requires the removal of a fence which separates The Red House from The White House Cottage. Under the Town and Country Planning (General Permitted Development) (England) Order (as amended), Schedule 2, Part 2 Minor Operations, Class A, the erection of this fence is permitted development, therefore not constituting a breach of planning control. It is not reasonably necessary to require the removal of this fence.

Step (iv) becomes redundant if Steps (ii) and (iii) are not required.

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

**Solent**

3 West Links, Tollgate, Chandlers Ford,  
Eastleigh, Hampshire, SO53 3TG  
T 023 8254 2777  
E Solent@pegasusgroup.co.uk  
Offices throughout the UK & Ireland

# Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



All paper sources from sustainably managed forests

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.

Registered office: Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT  
We are ISO certified 9001, 14001, 45001



Pegasus\_Group



pegasusgroup



Pegasus\_Group

**PEGASUSGROUP.CO.UK**