

Notification Letter

Enq To: Appeals Officer  
Direct Dial: 01962 848 599

11 July 2022

**TOWN AND COUNTRY PLANNING ACT 1990  
APPEAL UNDER SECTION 174**

<b>Site Address:</b>	<b>The Red House Botley Road Shedfield Southampton Hampshire SO32 2HN</b>
<b>Alleged breach:</b>	<b>Without planning permission the material change of use of the building shown hatched green on the plan B to use as a single dwelling house.</b>
<b>Appellant's name:</b>	<b>Mr Christopher Collins</b>
<b>Appeal reference:</b>	<b>APP/L1765/C/22/3300180</b>
<b>Appeal start date:</b>	<b>28.06.2022</b>

I refer to the above details. An appeal has been made to the Secretary of State against an enforcement notice issued by Winchester City Council on 06.05.2022

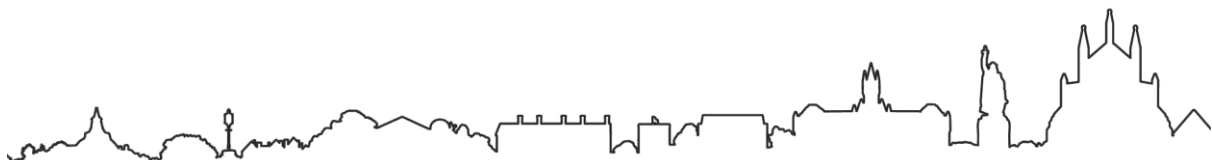
The enforcement notice was issued for the following reasons:

It appears to the Council that the above breach of planning control has occurred within the last four years.

The material change of use through the conversion of an existing ancillary building to create a wholly independent new dwelling, along with the associated operational development is unacceptable as it is contrary to Policies DS1, MTRA3 MTRA4 of the Winchester Local Plan Part 1 and the NPPF 2019.

The development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone. As a result, it is considered that the development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations.

The development is contrary to Policy CP15 and CP16 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it fails to protect and enhance biodiversity across the District by failing to make appropriate mitigation in regard to increased nitrates into the Solent SPAs. As a result, it is considered that the



development would result in significant harm to the Special Protection Area (SPA) and the species that it supports, therefore contravening the legal requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations.

The development is considered to cause harmful overlooking impacts and is considered to be contrary to policy DM17 of the Winchester District Local Plan Part 2.

The unauthorised development is served by an access onto Botley road where visibility is severely restricted in both directions, and the additional use of this access is prejudicial to highway safety contrary to the objectives of Policy DM18 – Access and Parking of The Winchester District Local Plan Part 2 - Development Management and Site Allocations (LPP2).

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

The enforcement notice requires the following steps to be taken:

- (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).

#### TIME FOR COMPLIANCE

For all steps 5(i) – 5(iv), 9 (nine) months from the date the notice takes effect.

The appellant has appealed against the notice on the following grounds:

- a) ~~That planning permission should be granted for what is alleged in the notice.~~
- b) ~~That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.~~
- c) ~~That there has not been a breach of planning control.~~
- d) ~~That, at the time that the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.~~
- e) ~~The notice was not properly served on everyone with an interest in the land.~~

f) **The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.**

g) ~~The time given to comply with the notice is too short.~~

The appeal will be determined on the basis of **written representations**. The procedure to be followed is set out in the Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002.

If you wish to make comments, you can do so online at <https://acp.planninginspectorate.gov.uk>. If you do not have access to the internet, you can send your comments to:

Paul Eland  
The Planning Inspectorate  
Room 3B  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**All representations must be received by 9 August 2022.** Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference APP/L1765/C/22/3300180.**

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal.

If you submit comments and then subsequently wish to withdraw them, you should make this request to the Planning Inspectorate by the date above.

The appeal documents are available to view on our website [www.winchester.gov.uk](http://www.winchester.gov.uk) using the following link [www.winchester.gov.uk/enforcement-appeal](http://www.winchester.gov.uk/enforcement-appeal). Online access is also available by visiting our offices in Colebrook Street, Winchester SO23 9LJ.

You can get a copy of one of the Planning Inspectorate's "Guide to taking part in enforcement appeals" booklets free of charge from GOV.UK at <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal> or from us.

When made, the decision will be published online at <https://acp.planninginspectorate.gov.uk>

Yours faithfully

**Julie Pinnock BA (Hons) MTP MRTPI**  
Service Lead - Built Environment