

SCOTT PLANNING

2 Calpe Yard, St Thomas Street, Winchester
Appeal Statement of Case
July 2023

Introduction

This Statement of Case has been prepared to accompany an appeal against an Enforcement Notice (ref 22/00238/WKS) issued by Winchester City Council (WCC) in respect of the erection of a pergola type enclosure to the roof terrace of No. 2 Calpe Yard, St Thomas Street, Winchester, SO23 9HE. This appeal is submitted on behalf of the owner / occupier of this dwelling, Mr Alastair Scott.

With reference to section 174(2) of the Town and Country Planning Act 1990, this appeal is made under the following grounds:

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
- g) that any period specified in the notice in accordance with section 173(9) (of TCPA 1990) falls short of what should reasonably be allowed.

As stated on the Appeal Form, the Appellant wishes this Appeal to be dealt with under the Written Representations procedure, due to the relative simplicity of the development concerned.

This Statement of Case sets out the physical and planning policy context for development at this site, an assessment of impacts arising, and proposals for how any identified impacts might be mitigated and minimised, e.g. through the imposition of planning conditions on a planning permission.

This consideration is informed by a brief Heritage Statement, that has been prepared due to the location of the Appeal Site within the Winchester Conservation Area, and within the setting of various nearby Heritage Assets. This Heritage Statement is appended to this Statement at Appendix B.

In addition, the following Appendices are attached:

- Appendix C: photographs of the structure that is the subject of this Appeal
- Appendix D: photographic survey of views of surrounding area, and
- Appendix E: photographs of similar enclosures within Winchester city centre.

Background

The unauthorised pergola type structure was erected by the Appellant during the summer of 2022, in order to prevent his pet cat from falling from the roof terrace that is situated to the top floor of this four-storey dwelling. The initial investigations by WCC Enforcement Officers commenced in February 2023, culminated in the issuing of

an Enforcement Notice on 29 June 2023. The Enforcement Notice requires the works to be removed from the site by 3 August, unless an appeal is submitted before.

As detailed in correspondence with WCC Enforcement Officers in the period leading up to the issuing of the Enforcement Notice, it is clear that the Appellant was of the view that the pergola enclosure was not development that required planning permission due to the insubstantial nature of the works. The email correspondence with officers also set out the Council's view that the structure represents unauthorised development since it does not meet the criteria for Permitted Development under Class A of the Permitted Development Order.

This then raised two issues. Firstly, whether the structure is itself 'development' for the purposes of the planning acts, and – assuming that this is the case – whether the structure would be deemed to be Permitted Development, with reference to Parts 1 and 2 of Schedule 2 of the General Permitted Development Order 1995, as amended.

Definition of Development

The statutory definition of development is set out within Section 55 of the Town and Country Planning Act 1990 as:

The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

This includes, under s.55(1A), the following 'building operations':

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder

S.55(2) of the Act goes on to set out operations that are excluded from the definition of development including under s.55(2) a):

- the carrying out for the maintenance, improvement, or other alteration of any building of works which:
 - i) affect only the interior of the building, or
 - ii) do not materially affect the external appearance of the building.

Internal alterations that include mezzanine floors which increase the floorspace of retail premises are excepted from s.55(2) i) above, but that is not relevant to the current appeal.

Furthermore, and as set out in the National Planning Policy Guidance (PPG), the term 'materially affect' has no statutory definition, but it is linked to the significance of the change which is made to a building's external appearance.

As noted above, the Appellant’s original view was that the pergola structure / cat enclosure was not a ‘building operation’ because it was of insubstantial construction (being timber cross members affixed to a section of rebuilt fence) and that it was not structurally fixed to any part of the existing dwelling.

This latter point references the ‘Skerritts’ case (Skerritts of Nottingham Ltd v SSETR & Harrow LBC [2000]) where the Courts established 3 factors for determining whether a structure is a ‘building operation’; the size of the structure, its permanence and the degree of physical attachment.

In this case, it is understood that the pergola structure is not structurally fixed to the existing dwelling, but rather rests onto the existing walls which enclose and define the roof terrace, under its own weight. The cat-proof netting that encloses the space is fixed to the pergola, but not to the house.

Despite this, it is considered that the bespoke nature of the structure, and the lack of space that would otherwise allow for the structure to be moved around means that it has a degree of permanence that means it would be likely to be deemed to be development for the purposes of the planning acts.

Permitted Development

Having established that the pergola structure is likely to be deemed to be ‘development’, the next consideration is whether the structure is, or can be adapted to be, Permitted Development, as defined by the Town and Country Planning (General Permitted Development) (England) Order 2015 (hereinafter referred to as GPDO).

Part 1 of the GPDO relates to Development within the curtilage of a dwellinghouse. It is noted that in correspondence with the Appellant, WCC Enforcement Officers set out their view that the pergola enclosure was not permitted development since it did not meet the criteria of Schedule 2, Part 1, Class A of the GPDO, giving the following reasons:

- Exceeds 4 metres in height (this is measured from the natural ground level)
- The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part exceed 3 metres
- The enlarged part of the dwellinghouse would extend beyond a wall which forms the principal elevation of the original dwellinghouse
- The materials are not of similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

The first two points are accepted and agreed. However, due to the unusual layout and arrangement of the existing dwelling, it is not clear that the Council are correct in saying that the part of the dwelling that faces Little Minster Street should be considered to be the ‘principal elevation’.

The Governments position on this is set out within the Permitted Development Rights for Householders Technical Guidance, as follows:

“Principal elevation” – in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.

No. 2 Calpe Yard, in common with the other dwellings forming part of this terrace contains its front door in the elevation facing St Thomas Street (i.e. west elevation), whereas the east elevation (facing Little Minster Street) contains the entrance to the integrated garage, with no pedestrian door to this street.

It is also noted, with reference to the above Technical Guidance extract, that the postcode for the property (SO23 9HE) is shared only by properties on St Thomas Street (the postal address of the appeal site). Properties on Little Minster Street (including the office building to the south of the Appeal site known as Calpe House) have the postcode SO23 9HB). Although it is recognised that there will be cases (as recognised in the Technical Guidance) where a dwelling will have more than one principal elevation, it should not automatically be assumed that just because an elevation faces a highway, then it must also be a principal elevation.

However, it is accepted that this line of reasoning may be largely moot, due to the height of the structure above ground level, and so it is accepted that the structure does not meet the criteria for Permitted Development set out within Schedule 2, Part 1, Class A of the GPDO.

It is also noted that due to the location of the property within the Conservation Area (i.e. Article 2(3) land), the following classes of Permitted Development are precluded:

- Class AA – enlargement of a dwellinghouse by construction of additional storeys
- Class B – additions etc to the roof of a dwellinghouse

In addition, the pergola would not fall under Class C (other alterations to the roof of a dwellinghouse) since it protrudes more than 0.15m beyond the plane of the roof slope and is not permitted development under Class E (buildings incidental to the enjoyment of a dwellinghouse) by virtue of the height of the structure above ground level (i.e. more than 4m).

Lastly, the structure would not be Permitted Development under Schedule 2, Part 2, Class A (gates, fences, walls etc) as it exceeds more than 2m in height (or 1m where adjacent to a highway)

Conclusion

Taking the above considerations into account, it is accepted that the pergola structure which is the subject of the Enforcement Notice is likely to be deemed to be ‘development’ for the purposes of the planning acts, and that it does not comply with criteria for relevant classes of Permitted Development.

As such, it is accepted that planning permission is needed to retain this structure and consequently, this Appeal is made on Ground A), that planning permission should be granted. The Appeal is also made on Ground G) (that the time given for compliance is too short), so that a more reasonably timeframe can be agreed with the Appellant should be appeal under Ground A) not be successful.

However, it is important to bear in mind that there will be cases where a similarly designed, but less permanent structure may not be deemed to be ‘development’ and as such would be immune from any enforcement action.

As shown in the photos appended to this Statement, there are many examples of netted additions to the roofs and elevations of properties – many of which are themselves listed buildings – presumably in the interests of bird proofing. Whilst such examples are likely in most cases to be outside of planning control, in many cases they can result in unsightly additions to the host structure – in many cases creating a visual impact that exceeds that of the structure to which this appeal relates.

The ability to erect a similar but less substantial enclosure onto the roof terrace must therefore be considered to be a relevant alternative solution that should be taken into account in the consideration of whether to grant planning permission for the structure.

Site Description

The unauthorised pergola structure has been erected to enclose the existing roof terrace located to the top floor of No. 2 Calpe Yard, a four-storey mid terraced house. The five dwellings within the terrace containing No. 2 have been created through the 1980s conversion of building understood to be on C19 origin, although due to the nature of the conversion, there is relatively little evidence of the historic structure. The only planning application contained on the public register for this site is an approval dated 1982 for a mixed use development including the conversion of an existing building into five dwellings.

The house has an unusual layout, with the ground floor / basement level containing an integral garage that is accessed from Little Minster Street and the main entrance to the dwelling being on the next floor up, via a small court that gives on to St Thomas Street. The main living space is located to the top floor, with the middle two floors containing bedrooms.

The main living room contains patio doors opening out on to a small roof terrace, a design feature that is common to all of the dwellings in the same terrace as the Appeal site. This roof terrace offers roof top views across this part of the city centre including towards Winchester Cathedral, which is situated approximately 250m to the southeast.

The roof terrace is enclosed by a 1.2m high masonry parapet wall to the south, which then increases in height on the side return to meet the eaves of the roof. In this way, the outside space appears to have been created by cutting away the front part of the roof so as to create an inverted dormer type arrangement. This means that the top (4th) floor of the dwelling is not readily visible from the surrounding public realm.

As shown in the photographs included in Appendix B, below, the recently erected pergola / cat enclosure is now partly visible from the public realm, above the aforementioned parapet wall. However, due to the narrowness and alignment of Little Minster Street, views of the appeal structure are relatively limited.

It is also noted that due to mature landscaping and intervening buildings, no part of the appeal site is visible from within the Cathedral outer close area (i.e. the area of open space to the north and west of the Cathedral).

Planning Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 directs decision makers to determine planning applications in accordance with the policies of the Development Plan unless material considerations indicate otherwise.

The current development plan for the area is provided by the Winchester District Local Plan Parts 1 and 2 (LPP1 and LPP2), adopted 2013 and 2017 respectively, together with the 2013 Minerals and Waste Plan.

Following the Court of Appeal judgement in *Cornwall Council v Corbett*, it is now widely accepted that the above-mentioned section 38(6) duty can only be properly performed if the decision maker reads the development plan as a whole, not by highlighting individual policies.

The Council are also at the early stages of producing a replacement plan (the emerging plan) and are due to commence a Regulation 18 consultation on 2 November 2022 (running until 14 December 2022), following approval at Cabinet on 18 October 2022.

Although this emerging plan will only have limited weight on any planning decisions following the publication of the Regulation 18 Plan, relevant emerging policies are discussed below, since they indicate the overall direction of policy within Winchester District.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that all material considerations are taken into account in decision making.

In this case, relevant material considerations include:

The National Planning Policy Framework (NPPF), including in relation to housing supply

Supplementary Planning Documents (SPD)

Development Plan

The current development plan for the area is provided by the Winchester District Local Plan Parts 1 and 2 (LPP1 and LPP2), adopted 2013 and 2017 respectively, together with the 2013 Minerals and Waste Plan. The following policies are listed within the decision notice as being taken account of in the Council's decision:

Local Plan Part 1, 2013

Policy DS1 provides for the overall development strategy and principles. This includes (5th bullet) 'achieving high standards of design and sensitivity to character, setting and cultural heritage'.

Policy WT1 sets out the development strategy for Winchester Town which includes (last bullet); ensuring all new development is of the highest design quality in terms of architecture and landscape. The policies goes onto require proposals to fully consider and respect the context of its setting and surroundings to reflect local distinctiveness, and historical and cultural heritage of the Town, and makes a positive contribution to the area.

Chapter 9, High Quality Environment establishes a number of overarching policies that seek to deliver sustainable good design, including Policy CP13 – High Quality Design. This expects new development to meet the highest standards of design and requires all proposals, including small domestic applications and changes of use) to demonstrate a rigorous design process in accordance with the criteria set out in the policy. This includes requiring proposals to make a positive contribution to the local environment and a public realm that has been designed to ensure it is attractive, safe, accessible and well connected.

Policy CP14 – The Effective Use of Land seeks to ensure that the development potential of all sites is maximised and will be balanced against the need to promote high quality design. The primary determinant of the acceptability of a scheme will be how well the design responds to the general character of the area.

Policy CP20 – Heritage and Landscape Character seeks to conserve and enhance the historic environment, and will support new development which

recognises, protects and enhances the District’s distinctive landscape and heritage assets and their settings.

The policy goes on to state that particular emphasis will be given to conserving recognised built form and designated or natural landscapes that include features and elements of natural beauty; and local distinctiveness in terms of materials, trees, built form and layout, tranquillity, sense of place and setting.

Local Plan Part 2, 2017

Policy WIN1, Winchester Town states that within the settlement boundary of Winchester, planning permission will be granted for development which accords the Development Plan and accords with the principles aimed at delivering the Vision for Winchester Town, including (first bullet) to protect and enhance its special character

Policy WIN2, Town Centre relates to the defined town centre as shown on the Policies Map (which the application site lies outside of) and – amongst other objectives – seeks to maintain Winchester’s role within the hierarchy of retail centres; and retain and expand existing businesses.

Policy WIN3, Views and Roofscape states that development in and around Winchester town will be permitted provided views that are integral to local character are maintained, including by ensuring that roof designs are sympathetic to the character of the towns historic roofscape in terms of bulk, grain, form and materials and makes a positive contribution to the roofscape.

Policy DM15 – Local Distinctiveness states that development should respect the qualities, features and characteristics that contribute to the distinctiveness of an area. This includes requiring development to conserve or enhance:

- The landscape and townscape framework
- Open areas and greenspaces that contribute to the special qualities of the townscape
- Recognised public views, features or skylines
- The special qualities of conservation areas and historic landscapes, and
- Trees, hedgerows, water features and corridors that contribute to local distinctiveness.

Policy DM16 – Site Design Criteria

Sets out specific criteria to guide development, including a requirement to positively respond to the area in terms of design, scale and layout; and (criterion 3) designs any service areas, including parking provision, cycle storage and bins, as an integral part of the scheme, ensuring it does not dominate the site or surrounding area.

Policy DM17, Site Development Principles (LPP2), requires development to:

- Provide a safe and secure environment that is accessible to all
- Not have an unacceptable effect on ecosystems, key townscape or landscape characteristics, or on heritage assets
- Include adequate provision for surface water drainage and sewage disposal
- Make adequate provision for refuse and recycling
- Not constrain the future development of adjacent sites
- Provide sufficient amenity space for users
- Not have an unacceptable impact on adjoining property by reason of overlooking, overshadowing or by being overbearing
- Not cause unacceptable levels of pollution; and
- Provide lighting that is not visually intrusive.

Policy DM27, Development in Conservation Areas permits development that conserves and enhances the conservation area. For extensions and alterations, proposals should:

- (a) respect the character, scale, massing and plan form of the original building and do not dominate principal elevations
- (b) use appropriate materials and detailing and do not result in the loss of features that contribute to the character or appearance of the Conservation Area, which may include original architectural details, natural features, trees, hedges, walls, fences, open areas, ground surfaces and archaeological sites, as well as buildings and groups of buildings
- (c) do not involve the erosion of character, such as the unsympathetic use of windows, doors or conservatories made of non-traditional materials or the replacement of traditional roofing materials with inappropriate ones
- (d) incorporate any energy efficiency or energy generation measures into the design of the proposals in a manner that has an acceptable impact on character.

Policy DM29, Heritage Assets states that alterations, additions or other works affecting the special interest of a heritage asset should:

- i. retain the historic plan form and structural integrity of the building;
- ii. retain the architectural and historic features forming part of the special interest of the building
- iii. reinforce the intrinsic character of the building through the use of appropriate materials and details
- iv. not harm the special interest of buildings or structures forming part of the curtilage of the heritage asset.

Material Considerations

Although precedence is given to the Development Plan policies outlined above, there are a number of important material considerations that also contribute to the planning balance to be weighed in deciding this application. This includes policy guidance at the national and local levels including that set out below.

National Planning Policy Framework (NPPF)

The NPPF is an important material consideration, with weight given to NPPF policies increasing where Development Plan policies are either silent or deemed to be out of date. The following sections of the NPPF are considered to be directly relevant to the current proposals:

- 2. Achieving sustainable development
- 12. Achieving well designed places
- 16. Conserving and enhancing the historic environment

High Quality Places Supplementary Planning Guidance

Adopted in 2015, the High Quality Places SPD provides further detail on how the Local Plan policies relating to design (including CP13) should be applied.

As well as dealing with matters urban design, orientation and layout that have already been established by the prevailing form of development on the site. the SPD (at Part 6) deals with individual elements of high quality buildings, including massing and scale, proportions, balconies, roofscape and roofshape, and dormers.

Part 7 of the SPD deals with materials and detailing, and Part 8 sets out how the principles established by the SPD should be applied to extensions. Relevant sections of the SPD are extracted here:

Part 6 High Quality Buildings

Massing

- 6.3 Massing has a significant impact on how successfully a building relates to other buildings, the street scene and spaces in general. The massing of a building relates to its scale, size, shape and height.
- 6.5 It is important for new development to be sensitively related to the scale and massing of neighbouring development.

Proportions

- 6.11 it is important to consider where the building will be viewed from when

considering the proportions.

Roofscape

- 6.43 The design of roofs will have a significant impact on the appearance and character of buildings, as well as how they relate to the street scene and context in general.
- 6.44 The combination of different roof forms can be a significant part of the character of an area, which can be particularly significant in longer views.

Roof shape

- 6.46 The roof shape will often have a significant impact on the character and appearance of the overall design, as well as the scale and massing.
- 6.47 Where roof shapes in an area are very consistent, then reflecting those shapes in new design can often help to ensure that new development is successfully integrated.
- 6.48 However, contemporary roof forms can often be incorporated provided they are sensitively related to the context. Moreover, a variety of roof shapes can make for a more interesting street scene and help to create a distinctive skyline.

It is assumed that copies of the relevant policies will be forwarded by the Local Planning Authority and so are not duplicated here. We would however be pleased to forward copies of any policies that the LPA might omit to forward.

Other Material Considerations

As noted above, the Appellant's single reason for erecting the pergola enclosure was to prevent their pet cat from escaping and possibly falling from the fourth floor roof terrace. This work was carried out soon after having moved into the property and was designed to be a lightweight structure that would be temporary in nature and – as originally assumed – would not therefore require planning permission.

The safety of the cat remains a primary concern for the Appellant, to the extent that should this current appeal be unsuccessful, they have indicated that they would need to implement an alternative method of enclosing the roof terrace in a way that does not need planning permission (e.g. a more easily demountable structure).

The appellant is also aware of other properties in the centre of Winchester that have similarly lightweight structures around balconies etc, most likely to prevent bird

ingress. Photos are attached within Appendix B of this Statement to show these examples.

Whilst it is likely that such solutions may not need planning permission in the same way as the structure under consideration in this appeal does, these examples nevertheless show that such structures produce a similar visual impact. As such, it is considered that the likely visual impact of the type of enclosure that does not need planning permission represents an alternative fall back option for the Appellant and so this should be taken into account in the determination of this current Appeal.

Key Planning Considerations

As noted in the introduction to this Statement, this Appeal is made on two grounds:

Ground A – that planning permission should be granted, and

Ground B - that, in the effect of the Appeal under Ground A failing, that more time should be allowed to remedy the breach of planning control.

The main planning considerations for each of these grounds is set out below.

Ground A

With physical and planning policy context for the appeal site outlined above, it is considered that the primary consideration for Appeal under Ground A relates to the design and appearance of the pergola structure, and the associated impacts on the character and appearance of the surrounding area, including in relation to impact on significance of identified heritage assets.

This includes the surrounding Winchester Conservation Area and, relatedly, any nearby Heritage Assets (listed buildings), as identified in the Heritage Statement appended to this Statement.

In addition, the overall impact on the residential amenities of the adjoining dwellings will need to be considered.

It is not considered that the proposals give rise to any issues related to highway or pedestrian safety, ecology or arboriculture, flooding or sustainability.

As noted within the Heritage Statement at Appendix A of this Statement, the Appeal Site does not represent a prominent feature within the centre of Winchester, largely due to its ‘mews’ or ‘backs’ location and the overall density of development in this part of Winchester. Although the postal address of the site is St Thomas Street, the building containing the terrace of houses is situated within a private yard (Calpe

Yard) and therefore not visible from St Thomas Street and is only visible from the public realm when viewed from Little Minster Street. This street, which operates to a large extent as a mews to larger and higher status buildings on St Thomas Street or Great Minster Street, is largely unremarkable architecturally, but derives its character – and so contribution to the overarching character of the Conservation Area – from its highly urban built form, with buildings fronting directly onto the street and largely continuous built form to both sides of the street.

This gives Little Minster Street a very high degree of enclosure, which tends to mean that the majority of people's field of vision when they are within this space will be taken up by buildings, and views of the sky only possible by craning the neck upwards.

In addition, the slight bend along the length of Little Minster Street means that opportunities to view the upper parts of buildings, and sky beyond, in longer range views down the Street are curtailed.

The above factors add up to mean that the pergola structure is not readily or easily viewed from the public realm within Little Minster Street, except through making a special effort to look at it. In addition, the structure is not at all visible from the majority of the public realm of adjoining streets and spaces, including the Cathedral Outer Close. Only a small view of the structure is possible from the very northern end of Little Minster Street, at the junction of the High Street. However, to the busy nature of the public realm in this area, it would seem unlikely that the majority of people will notice any change in this view.

This all possibly explains why it took nearly 9 months between the structure having been erected and any enforcement proceedings taking place.

However, notwithstanding this, the Appellant has indicated that they would be willing to treat the timber with a darker stain so that it more closely matches the colours of the upper parts of the building (being either dark red brick of the parapet wall, or dark grey roofing materials).

In addition, the Appellant has indicated that they would be happy to accept a temporary (5 year) planning permission for the enclosure – as it is likely that they will have moved elsewhere for work reasons during this time. Although the level of harm arising from the structure is considered to be low, a temporary permission would allow some degree of control over the structure, including by better understanding and monitoring the ability to improve the appearance of the structure by changing its colour.

Lastly, it is not considered that the pergola enclosure will have any detrimental affect on the living conditions of the adjoining residential properties. Although the sides of the structure will curtail the views out of the adjoining terraces compared with the slightly smaller fence that preceded it, this also serves to increase privacy and reduce noise transfer between the private terraces. It is understood that the neighbours consider this to be an improvement.

Conclusion – Ground A

Although it is recognised that the pergola enclosure is visible from parts of the public realm within the Conservation Area, the urban nature and alignment of Little Minster Street mean that opportunities to appreciate this change in the appearance of the host building are relatively limited, and largely on affect parts of the public realm which are seen as making a lower contribution to the overall character (and so significance) of the Conservation Area.

Notwithstanding this, the Appellant would be willing to agree to change the colour of the structure through agreement with the Council (to be secured through planning condition) and/or accept a temporary (5 Year) planning permission for the enclosure.

Ground G – period to remove structure

In the event of the Appeal under Ground A not being successful, the Appellant would be grateful for a degree of flexibility on the timing for the removal of any unauthorised works.

Whilst it is understood that the Council when issuing the Enforcement Notice were mindful of the need to bring the structure under some degree of planning control in short order – it is considered that due to the relatively small amount of harm to the character and appearance of the Conservation Area discussed under Ground A, some degree of flexibility would would be permissible.

The reason for this is that the Appellant would likely either need to rehome their cat, or find somewhere else to live and that both of these options would take 3 – 6 months to complete.

As such, it is requested that any recommended timescale for Enforcement provide at least 6 months from decision to allow the Appellant to remove any unauthorised structures.

Appendix A

Copy of Enforcement Notice



Legal Services City Offices
Colebrook Street
Winchester
Hampshire
SO23 9LJ

tel 01962 840 222
fax 01962 848 472
telephone calls may be recorded

email legal@winchester.gov.uk
website www.winchester.gov.uk
DX 120400 WINCHESTER 5

Mr Alastair Peter Drummond Scott
2 Calpe Yard
St Thomas Street
Winchester
SO23 9HE

Case no: 22/00238/WKS
Our Ref: LS/Enf
Enq to: Lisa Sargent
Direct Line: 01962 848443
Email:
LSargent@winchester.gov.uk

29th June 2023

Dear Sir

Section 172 Town and Country Planning Act 1990
Enforcement Notice: Land at 2 Calpe Yard, St Thomas Street, Winchester, Hampshire, SO23 9HE

The local planning authority, Winchester City Council, has issued an enforcement notice relating to the above land and I now serve on you a copy of the notice as you are the registered owner of the land. Copies of the notice are being served on any parties listed at the end of this letter.

There is a right of appeal in respect of the enforcement notice to the Secretary of State (at The Planning Inspectorate). Unless an appeal is made, as described below, the notice will take effect on **3rd August 2023** and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

Please see the attached information sheet from The Planning Inspectorate which tells you how to make an appeal in respect of the enforcement notice.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **3rd August 2023**.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) 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;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £412 which is double the £206 application fee). You should pay the fee (£412) to Winchester City Council (cheque made payable to Winchester City Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit the 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.

Parties on whom the Enforcement Notice has been served:

Alastair Peter Drummond Scott of 2 Calpe Yard, St Thomas Street, Winchester, Hampshire, SO23 9HE

Alastair Peter Drummond Scott of Flat 4 Paternoster House, Colebrook Street, Winchester, Hampshire, SO23 9LG

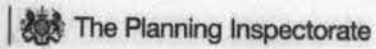
Bank of Scotland PLC, (Scot. Co. Regn. No.SC327000) of Halifax Division, 1 Lovell Park Road, Leeds LS1 1NS.

Yours faithfully



INVESTOR IN PEOPLE

Mark Watkins, Service Lead - Legal, Winchester City Council



Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0303-444 5000
Email enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.

April 2019

Case Reference 22/00238/WKS

Issued: 29th June 2023

WINCHESTER CITY COUNCIL

ENFORCEMENT NOTICE

relating to land at

2 Calpe Yard, St Thomas Street, Winchester, Hampshire, SO23 9HE

Mark Watkins, Service Lead - Legal, Winchester City Council, City Offices, Colebrook Street,
Winchester, Hampshire, SO23 9LJ

Case Reference 22/00238/WKS

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY: WINCHESTER CITY COUNCIL

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider 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 AFFECTED

Land at 2 Calpe Yard, St Thomas Street, Winchester, Hampshire, SO23 9HE shown edged in red on the attached plan ("the Land").

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the erection of a structure on the roof terrace.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Local Planning Authority that the aforementioned breach of planning control occurred within the last four years.

The development is contrary to Policy CP20 of the Winchester District Local Plan Part 1 - Joint Core Strategy, and Policy DM15, DM16, and DM27 of the Winchester District Local Plan Part 2 – Development Management and Site Allocations as it is considered an incongruous feature, with an insubstantial 'ad-hoc' character, rather than a considered conscious design feature. By virtue of its projection above the parapet it is visible from the public realm of Winchester High Street and the surrounding area. It is therefore not considered to conserve or enhance the Winchester City Conservation Area and its special character.

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

5. WHAT YOU ARE REQUIRED TO DO

- i. Demolish the structure (shown in the photographs at Appendix A)
- ii. Remove any resultant waste from the Land.

6. TIME FOR COMPLIANCE

Three months after this notice takes effect.

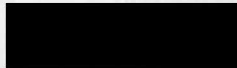
Case Reference 22/00238/WKS

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 3rd August 2023 unless an appeal is made against it beforehand.

Date: 29th June 2023

Signed:



Mark Watkins, Service Lead - Legal

On behalf of: Winchester City Council, City Offices, Colebrook Street, Winchester, Hampshire, SO23 9LJ

Case Reference 22/00238/WKS

ANNEX

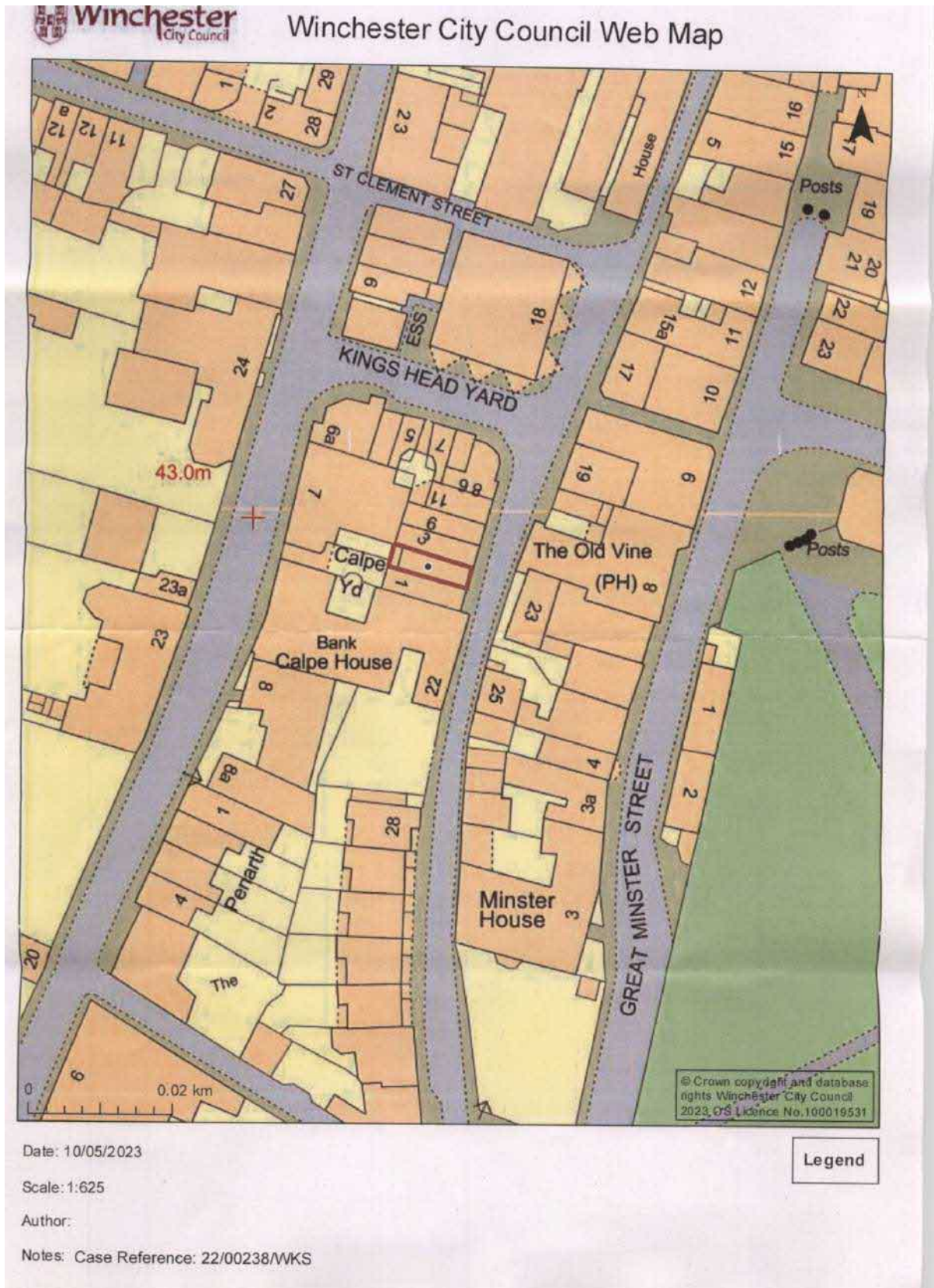
YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate acting on behalf of the Secretary of State 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.

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[s] 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.



Appendix A

