



Appeal by Mr Micheal Field

**Against an Enforcement Notice served by
Winchester City Council dated 1st September
2022**

at

**Stratton, Highways, Compton, Winchester,
SO21 2DF**

[Appellant's Statement of Case](#)

Date: 29/09/2022

LPA Ref: 20/00134/BCOND

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<u>Contents:</u>	Page
1.0 INTRODUCTION.....	1
2.0 SITE AND SURROUNDINGS	2
3.0 RELEVANT PLANNING HISTORY.....	3
4.0 STATEMENT OF CASE	11
5.0 CONCLUSIONS.....	14

Appendix 1: Officer’s report for application 08/01823/FUL

Appendix 2: E-mail from Sager Perwez dated 2nd October 2020

1.0 INTRODUCTION

1.1 Southern Planning Practice acts on behalf of Mr Michael Field.

1.2 This Statement relates to an Enforcement Notice that has been served by Winchester City Council in respect of works undertaken at Stratton, Highways Road, Compton, Winchester, SO21 2DF.

1.3 The appeal is made on the following grounds:

Ground (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”, and

Ground (g) – “that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed”

1.4 This Statement sets out the Appellant’s full case in support of the appeal under Grounds (f) and (g). It should be read in conjunction with the submitted plans.

2.0 SITE AND SURROUNDINGS

2.1 Stratton is a detached dwelling situated on the northern side of Highways Road in an established residential area between Compton and Shawford to the south of Winchester. Highways Road is sandwiched between Otterbourne Road to the east and the M3 to the west. The road is a residential street characterised by large detached dwellings situated within generous plots. Dwellings vary significantly in terms of age and architectural style with the oldest properties on the street dating from the interwar period.

2.2 The map below shows the location of the site.



Ordnance Survey map data by permission of Ordnance Survey,
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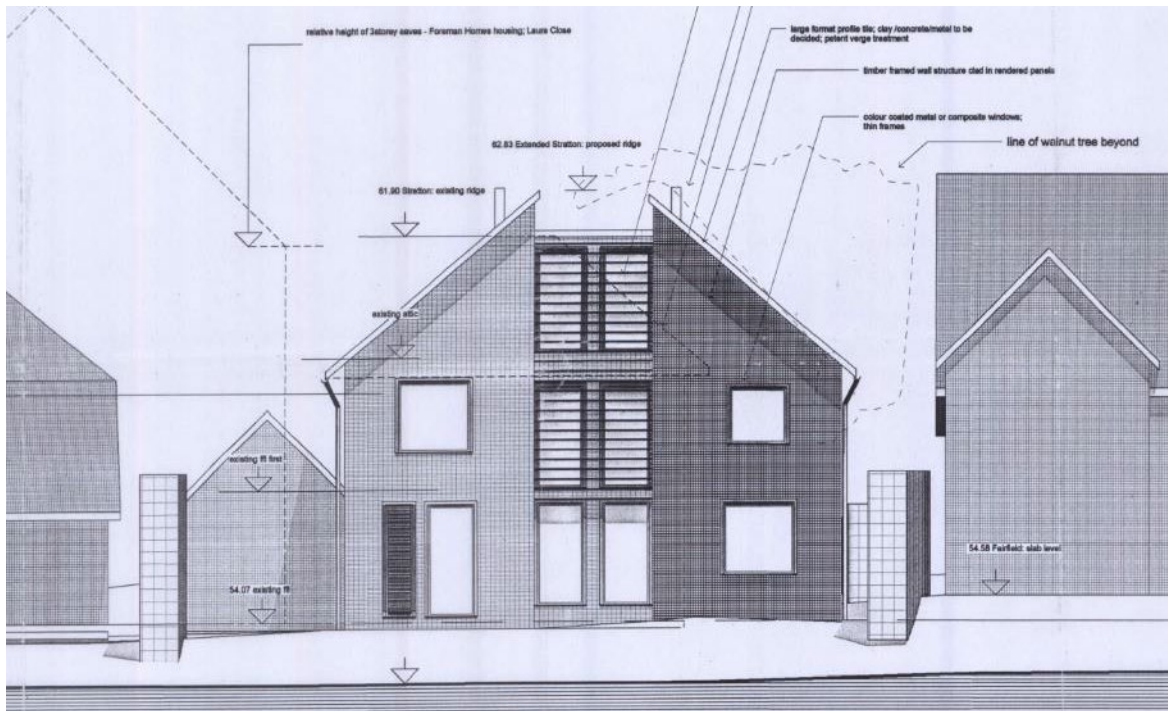
2.3 The original dwelling was of brick construction with double bay windows and is thought to have dated from the late 1920's.

3.0 RELEVANT PLANNING HISTORY

- 3.1 In July 2008 a planning application was submitted for *‘two storey front, side and rear extensions, alterations and new roof over existing house’*.
- 3.2 The scheme proposed the significant modernisation of the dwelling and was consented in September 2008 under reference 08/01823/FUL. The officer’s delegated report for the approved scheme concluded *‘...whilst the extension is unarguably very large, it is considered that the resulting dwelling will not appear incongruous when read against the scale of properties within the locale’*. Furthermore, the case officer noted that *‘It is proposed to completely alter the appearance of the dwelling by introducing contemporary materials and modern design. The result would be an extension that would give the appearance of a new dwelling rather than an addition to an existing dwelling’*. A copy of the delegated report for the original application can be found at Appendix 1. Images of the original dwelling and consented scheme are shown below and overleaf.



Stratton: The original 1920's dwelling (South Elevation)



Stratton: The scheme consented in 2008

3.3 Since consent was granted, work has proceeded intermittently. During this protracted construction period a number of modifications have been made to the design. The dwelling currently sits in a partially constructed state. Photos of the current dwelling are shown below.



Stratton: South elevation as built



Stratton: Northern elevation as built



Stratton: South East elevation as built



Stratton: South West elevation as built

3.4 On the 2nd of October the applicant's agent Mr Welch was contacted by Winchester City Council's enforcement team who alleged that the building was not built in accordance with the earlier application (08/01823/FUL) and requested that the breach be regularised through the submission of an application or by "*removing the unauthorised development*". A copy of this request by e-mail is attached as Appendix 2.

3.5 To regularise the changes that had occurred during the construction process a further Planning Application was submitted on the 19th of March 2021, the description of development was:

'Two storey front, side and rear extensions; alterations and new roof over existing house (amended design and roof to that permitted under 08/01823/FUL)'

3.6 The application was registered under reference 21/00782/HOU. During the determination period the application attracted a number of comments from third parties. The officer's delegated report lists:

- Compton and Shawford Parish Council – Objection;
- 20x neighbour Objection;

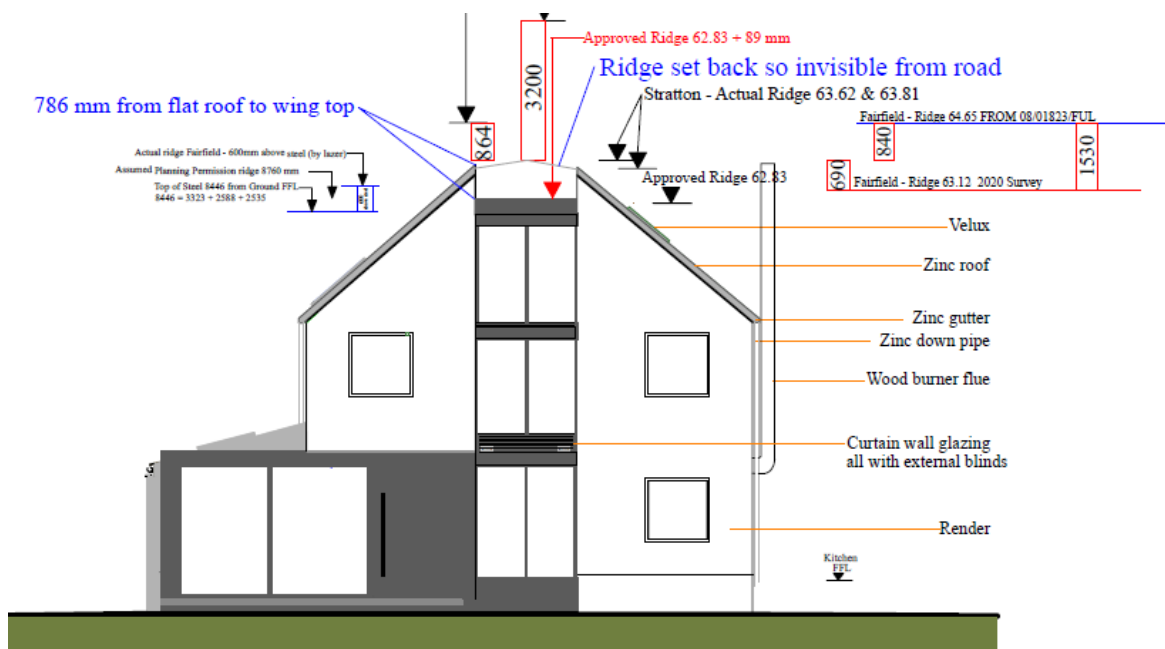
- 3x Neighbour Support, and
- 1 x Neighbour No Objection.

3.7 The objections to the scheme concerned the following:

- Property too large (too high, too wide and too long);
- Measurements do not match original;
- Over development;
- Number of windows;
- Tree cut down;
- Hedges removed;
- Built right up to the western boundary;
- Non in accordance with the building line;
- Number of rooflights, and
- Out of character.

3.8 Those supporting the application were in favour of the modern design of the proposal.

3.9 Following the initial consultation period the applicant submitted a revised set of plans on the 4th of June 2021 showing a modified roof arrangement comprising a receded ridge to mimic the winged design of the originally consented dwelling. Please see elevational drawing below.



- 3.10 Despite these changes the application was refused under delegated powers on the 12th August 2021. The decision notice cited a single reason for refused, repeated below.

'The proposed extensions and alterations, by virtue of their size, scale and height and resultant massing do not respond positively to the character and appearance of the host dwelling or local area thereby having an incongruous and intrusive visual impact as seen from the public and private realm. They also cause significant harmful impacts to the surrounding residential amenity in terms of overbearing and overlooking. The proposal is therefore contrary to Policy CP13, DS1 and MTRA3 of Winchester District Local Plan Part 1, DM15, DM16 and DM17 of Winchester District Local Plan Part 2 and The High Quality Places SPD (Part 6, paras 6.3-6.7).'

- 3.11 The decision was subsequently appealed on the 3rd of November 2021 (reference APP/L1765/D/21/3286123) under written representations procedure. The appeal was supported by a full statement of case. The appeal was dismissed by notice dated the 3rd of February.
- 3.12 The Inspector accepted that the dwelling was of 'comparable height with others within the road' (para. 12) but concluded that its contemporary design and finish materials accentuated its overall scale and massing and he was not convinced that the revised design gave the impression that the wings extended the entire length of the roof as originally constructed. In general the inspector was concerned that the revised proposal paid less attention to articulation and other detailing than the originally approved dwelling.
- 3.12 With regard to living conditions the Inspector considered it *'highly unlikely that any views therefrom would give rise to a material level of overlooking to either neighbouring residential property, especially bearing in mind that the attic window serving Fairfield is obscurely glazed'*. The Inspector also concluded that *'the increase in ridge height would not give rise to a material increase in its overbearing impacts upon the occupants of both neighbouring dwelling'*.
- 3.13 In response to the Inspector's comments, the appellant submitted a further application to restore the architectural interest of the building whilst retaining those elements that were considered acceptable. The application was submitted on the 3rd of May 2022 and proposed the reinstatement of all of the key architectural detailing and articulation that was omitted from the scheme as built. This included:

- Removal of raised central section of roof;
- Reduction in overall roof height;
- Reinstatement of 'wing tips'
- Reinstatement of projected eaves, and
- Reinstatement of louvers on front elevation (now down to ground level);

3.14 Additionally, the following was proposed:

- Paint render 'buff' colour, and
- Planting of new 'pleached' hedge on eastern boundary to further soften view from street scene (species to be confirmed).

3.15 It was proposed that the installed rooflights would remain in place as the Inspector found that they would not have an adverse impact on residential amenity. Similarly it was not proposed that the windows present on the side elevation of the original scheme were reinstated as their removal from the scheme was considered to only make the scheme more 'neighbourly'.

3.16 Despite the changes made for the amended scheme, the application was refused under delegated powers on the 1st of September 2022 (reference 22/00932/HOU). The decision notice cited a single reason for refusal, repeated below:

"The proposed extensions and alterations, by virtue of their size, scale, height and resultant massing, materials and appearance do not respond positively to the character and appearance of the host dwelling or local area thereby having an incongruous and intrusive visual impact as seen from the public and private realm. The proposal is therefore contrary to Policy CP13, DS1 and MTRA3 of Winchester District Local Plan Part 1, DM15 and DM16 of Winchester District Local Plan Part 2 and The High Quality Places SPD (Part 6, 7 and 8) and the Compton & Shawford Village Design Statement November 2011 and the requirements of the NPPF 2021."

3.17 My client intends to shortly appeal this decision as a way of remedying the current breach and will request for the appeal to be conjoined with this one.

Planning Enforcement Notice

- 3.18 The Enforcement Notice subject of this appeal was also issued on the 1st of September 2022 and the reason cited was exactly the same as that on the decision notice for application 22/00932/HOU above.
- 3.19 The Enforcement Notice was due to take effect on Friday 30th of September.
- 3.20 The Enforcement Notice requires:
- (i) Demolish the unauthorised operational development (roof and extensions) described in 3. above (“the Unauthorised Operational Development”);
 - (ii) Upon demolition reinstate the walls and roof of the dwellinghouse to those prior to the carrying out of the Unauthorised Operational Development either:
 - (a) as shown in the photos attached as appendix A to this Notice;
 - or
 - (b) as shown outlined in red in their approximate position shown on the attached plans at appendix B to this Notice those being plans submitted with a previous planning application for Stratton;
 - (iii) Remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (ii).
- 3.21 The stated time for compliance is **12 months**.
- 3.22 The appellant has submitted this appeal to challenge these two aspects of the notice, i.e the steps required to comply with the notice and the timeframe for compliance.

4.0 STATEMENT OF CASE

4.1 This appeal is submitted on grounds (f) and (g) only. The appellants Statement of Case for each ground is set out below.

Ground (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”,

4.2 The enforcement notice requires that the appellant revert the building back to how it existed prior to the granting of consent 08/01823/FUL in September 2008. This requirement is unexpected and unreasonable and goes against the grain of all previous conversations held and correspondence exchanged with the LPA.

4.3 The scheme as it stands at present is a deviation from consent 08/01823/FUL. The consented scheme has been determined to be an acceptable form of development. Indeed when considering appeal ref: APP/L1765/D/21/3286123 the Inspector judged the consented scheme to be the baseline from which he considered the revised proposal. In that instance he concluded that the revisions “*would most certainly appear as a retrograde step from the approved scheme*”, inferring that the approved scheme was an acceptable form of development.

4.4 It should also be acknowledged that the enforcement proceedings were commenced because “*Alleged not building according to planning application 08/01823/FUL...*”. See e-mail at Appendix 2. It was clear following these initial discussions with the Council that deviating from the consent had resulted in the breach, and that aligning the development with the consent could be one method of remedying it. Attempts have been made since then to try and find a “middle position” to establish whether there is a form of development between that which stands and that consented that would be acceptable to the LPA. The appellant maintains that there is and will continue to try and negotiate this.

4.5 It should also be recognised that reverting to the original dwelling would in practical terms, require the complete demolition of the current dwelling and the erection of a completely new dwelling to appear like that which existed before. This would be a completely new form of development. This is because building the current development involved removing the roof,

all major walls and detailing from the previous dwelling. Materials from the original dwelling have long been disposed of.

- 4.6 It therefore stands within the rules of natural justice that the enforcement notice should be amended to refer to consented scheme 08/01823/FUL. A complete set on plans for the 2008 application are included with this appeal and could be appended to any revised enforcement notice. An amended form of text could read:

“(i) Demolish the unauthorised operational development (roof and extensions) described in 3. above (“the Unauthorised Operational Development”);
(ii) Upon demolition reinstate the walls and roof of the dwellinghouse to those approved under planning consent 08/01823/FUL as shown in the plans attached as appendix A to this Notice;”

- 4.7 Notwithstanding the above, the appellant considers that the refused scheme 22/00932/HOU) is capable of remedying the current breach. An appeal will be submitted pursuant to this refusal shortly and if that scheme is considered acceptable, the Enforcement Notice could be amended to refer to that scheme.

Ground (g) – “that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed”

- 4.8 Winchester City Council have allowed 12 months for compliance with the enforcement notice. This is an unreasonably short period of time given the complexity of the work and it does not take into account difficulties in obtaining contractors, materials and refinancing.
- 4.9 From a standing start it would be difficult to design and building a small household extension within 12 months. The dwelling at Stratton has been a far more complicated project than this and has utilised expensive materials and specialist building techniques (especially within the roof). To remove the current roof would require a full over-house tent to weather protect the completed internal fit out followed by careful and time consuming stripping of the roof and a number of complicated crane lifts to remove rooflights and roof steels. The appellant has also advised that he would need to re-mortgage the property to secure the necessary funds, a process which in itself can take several months.

- 4.10 Additionally there remain substantial delays in obtaining key building materials, most of which are produced abroad. Contributing factors towards these delays have been COVID-19 (which has suppressed production) and Brexit (which has added cost). The appellant also expects there to be a substantial delay in commissioning contractors to undertake building work. All trades are in significant demand due to a huge upsurge in people seeking home improvements in the last 12-18 months (through a desire to stay in their homes rather than move).
- 4.11 Taking this into consideration, it is suggested that a minimum period of **24 months** would be required to comply with the provisions of the decision notice, whether that would involve reverting to the 2008 consented scheme or original dwelling as it existing prior to 2008.

5.0 CONCLUSIONS

- 5.1 The appellant has outlined why the steps outlined in the enforcement notice are considered entirely unreasonable. Enforcement action commenced because of the deviation that had occurred from consent 08/01823/FUL, it stands to reason that the breach can be remedied by aligning the scheme with the consent once more. To require the complete reconstruction of a dwelling that no longer exists is completely unreasonable.
- 5.2 Due to delays in obtaining materials and contractors, the appellant will require at least 24 months to comply with the provisions of the enforcement notice (amended or not).
- 5.3 The appellant maintains that there is a “middle position”, somewhere between consent 08/01823/FUL and the development as it currently exists. The appellant will appeal application 22/00932/HOU and request it to be determined in conjunction with this appeal and will continue to negotiate other options with the LPA.

Appendix 1: Officer's report for application 08/01823/FUL

WINCHESTER CITY COUNCIL
 DEVELOPMENT CONTROL DELEGATED OFFICER REPORT
 DATE OF RECOMMENDATION 29 September 2008

Winchester
 City Council
 Planning
 Department
 Development
 Control

TEAM MANAGER
 SIGN OFF SHEET

Delegated Decision

Case No:	08/01823/FUL	Valid Date	5 August 2008
W No:	08667/02	Recommendation Date	29 September 2008
Case Officer:	Mr Ian Cousins	8 Week Date	30 September 2008
Recommendation:	Application Permitted	Decision:	Delegated Decision

Proposal: two storey front, side and rear extensions; alterations and new roof over existing house

Site: Stratton Highways Road Compton Winchester Hampshire

Open Space Y/N	Legal Agreement	S.O.S	Objections	EIA Development	Monitoring Code	Previous Developed Land
N	N	N	N	N	N	Y

DELEGATED ITEM SIGN OFF
<p>Approve Subject to the condition(s) listed</p>
<p>Signed/Date:</p> <p style="font-size: 2em; margin-left: 100px;">30/9</p>

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT
DATE OF RECOMMENDATION 29 September 2008

Site Description

- The property is a two storey, detached dwelling of traditional construction with white rendered walls under a clay tile roof.
- The property is served by two driveways with a garage to the rear of the property.
- There is a coniferous hedge approximately 4 metres in height to the front of the site on the eastern boundary.
- A further selection of shrubbery exists to the front of the site offering a certain level of screening with a one metre high close boarded fence set back but adjacent to the highway.
- The property benefits from a very large rear garden which contains mature vegetation offering a high level of screening from neighbouring properties.
- It forms part of a street scene of predominately large, detached dwellings of varying design set in large plots with their principal elevations facing onto Highways Road.
- The site is typically residential in appearance.

Relevant Planning History

W08667 Erection of garage - Stratton Highways Road Compton Winchester Hampshire SO21 2DF - Application Permitted - 04/07/1985

W08667/01 Two and a half storey rear extension - Stratton Highways Road Compton Winchester Hampshire SO21 2DF - Application Refused - 22/09/2003

Proposal

- As per Proposal Description

Consultations

- Landscape – No objection as the walnut tree to the rear of the site will only require a small level of pruning and although this is a large extension, its impact on the landscape would be minor. Recommend that a further tree be planted to the front of the site to soften the view.
- Environmental Protection – no objection to the proposal. Would appreciate environmental protection informatives to be included in the decision.

Representations:

Compton And Shawford Parish Council = No comments

Neighbour Representation = 1 letter received from the neighbouring property to the east (Fairfield) stating that they have no objection to the proposal.

Relevant Planning Policy:

Winchester District Local Plan Review

- DP3

National Planning Policy Guidance/Statements:

- PPS1

Planning Considerations

- Principle of development
- Impact on character of area

Principle of development

- The principle of extending the dwelling is considered acceptable and in accordance with all relevant policies.

Impact on character of area

- The property is situated in an area that predominately consists of large detached properties in large plots, with the exception of two recently completed developments to the north and south of the site, and is a strong element in defining the character of the area.

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL DELEGATED OFFICER REPORT
DATE OF RECOMMENDATION 29 September 2008

- Given this, whilst the extension is unarguably very large, it is considered that the resulting dwelling will not appear incongruous in its scale when read against the scale of properties within the locale.
- The relationship between the application property and the two neighbouring properties is an important consideration given the scale of the extension.
- The rear of the property is proposed to extend no further beyond the rear elevation of the dwelling to the east, which is the closest dwelling, and no further past the front elevation of the dwelling to the west.
- Given this, and the fact there is mature vegetation to the boundaries, it is considered that the dwelling, as extended, will respond positively to the position of both dwellings and not be overbearing to either property when viewed from their respective amenity areas.
- The height of the proposed dwelling is to be raised by approximately 0.9m. This is considered to be acceptable as this will still be marginally lower than the neighbouring property to the east. Although it will result in a higher ridge line than the neighbouring property to the west, given that there is a distance of approximately 4.5 metres between dwellings, it is considered that the resulting roof will not be over dominating.
- It is proposed to completely alter the appearance of the dwelling by introducing contemporary materials and a modern design. The result would be an extension that would give the appearance of a new dwelling rather than an addition to an existing dwelling.
- Given that the street scene is characterised by varying styles of properties of different eras, it is considered that providing an extension that gives the appearance of a new dwelling designed with a contemporary edge, further enhances the mixture of houses that are present in this street and will not be detrimental to the character of the area.
- When viewed in the street scene from the east, it is considered that the property as extended will continue an existing 'staggered effect' to the building line which sees the properties moving closer to the highway and will therefore respond positively to this characteristic.
- The proposal presents no overlooking issues as the windows to the first floor on the western elevation are conditioned to be obscure glazed and the window to the first floor on the eastern elevation serves a landing and looks over a blank elevation of the neighbouring property. The proposed balcony to the rear of the property is screened to the east and west by the building itself and looks directly over the garden of the application site.
- It is considered that there is a suitable level of vegetation that exists to the front of the property that will assist with the integration of the extended dwelling into the street scene and further considered that it would be unnecessary to request further planting as this could then obscure a form of development that is considered to enhance the street scene.
- The proposal presents no overshadowing issues.

Recommendation

APPROVE

Conditions/Reasons

01 Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

01 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

02 No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Appendix 2: E-mail from Sager Perwez dated 2nd October 2020



Adam Welch [REDACTED]

20/00134/BCOND - Stratton, Highways Road

1 message

SPerwez@winchester.gov.uk <SPerwez@winchester.gov.uk>

2 October 2020 at 12:38

To: [REDACTED]

Dear Mr Welch

Breach: Alleged not building according to planning application 08/01823/FUL and occupation and extension of outbuildngs

Address: Stratton Highways Road Compton Winchester Hampshire SO21 2DF

I recently conducted a site visit regarding the above matter.

I can confirm that the development requires planning permission and it does not appear that such consent has already been granted. It is therefore open to you to attempt to regularise the situation through the submission of a retrospective planning application for formal consideration by Winchester City Council. The invitation to submit a retrospective application does not imply and is without prejudice to any final decision made by the City Council.

Application forms and guidance notes can be found on the Council's website www.winchester.gov.uk. Alternatively applications can be submitted online via www.planningportal.gov.uk If applying then please ensure the application made to us **within 28 days of the date of this letter.**

Alternatively, your only other option is to remedy the breach by removing the unauthorised development for which we could negotiate a reasonable timescale for this to happen.

Failure to secure planning permission or remedy the breach will result in our department assessing whether it is expedient to take enforcement action.

Please confirm your intentions in writing **within the next 7 days.**

-

A hard copy of this correspondence has been sent to the land owners by post.

Kind regards

Sager Perwez

Planning Enforcement Officer

Winchester City Council

Colebrook Street

Winchester, SO23 9LJ

Tel: 01962 848140

Ext: 2111



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