

## **Winchester City Council**

### The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009

Appeal by Mr Michael Field against the issue of an enforcement notice dated 1<sup>st</sup> September 2022 which requires 1. Demolition of the unauthorised development (roof and extensions); 2. Upon demolition reinstatement of the walls and roof of the dwellinghouse to hose prior to the carrying out of the Unauthorised Operational development either; (a) as shown in the photos attached as appendix A; or (b) as shown outlined in red in their approximate position shown on the attached plans at appendix B; 3. Removal from the land of all materials and debris arising from the works at:

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

### **Appeal Statement**

PINS reference: APP/L1765/C/22/3307930

LPA reference: 20/00134/BCOND

Statement on behalf of Winchester City Council produced by Kate Longley



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## APPENDICES

1. Site photos taken by Officer 18<sup>th</sup> March 2022.
2. Officer memo for enforcement action this includes appendices with the following;  
Appendix 1; 03/01873/FUL decision notice  
Appendix 2; 08/01823/FUL decision notice and relevant plans  
Appendix 3; 21/00782/HOU decision notice and relevant plans  
Appendix 4; APP/L/1765/D/21/3286123 decision  
Appendix 5; 22/00932/HOU decision notice and relevant plans  
(The other appendices referenced have not been included at this time but can be provided if they are deemed helpful/necessary)  
Officer note point of clarification: The requirements in the memo were discussed further and amended prior to the final notice being served.
3. Correspondence advising that the development had not commenced in time (pursuant to condition 1 on application 08/01823/FUL) meaning the permission had lapsed and a new planning application would be required.
4. Officer photos taken during site visit 12<sup>th</sup> April 2012 indicating no commencement
5. Planning linked appeal, reference: APP/L1765/W/22/3307967

## 1. Introduction

1.1 This appeal follows the Council's issuing of an enforcement notice ("the Notice") dated 1<sup>st</sup> September 2022. The alleged breach of planning control is:

*"Without planning permission, operational development consisting of the construction of a new roof at an increased height and two storey side, rear and front extensions to the dwelling house known as Stratton."*

1.2 The notice requires the following;

- (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;
  - (c) Remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (iii).

1.3 The appellant has appealed the notice on grounds (f) and (g).

1.4 In this statement the Council sets out its case in relation to ground (f) and (g) and responds to the points raised by the Appellant in his statement.

1.5 The evidence that I have prepared and provide in this written statement is true and has been prepared and given in accordance with the Royal Town Planning Institute guidance. I confirm that opinions expressed are my true and professional opinions.

## 2. Ground (F); the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections

2.1 The appellant has stated in section 4 of their statement that the development as it stands is a deviation from planning permission granted by 08/01823/FUL. This planning permission included a standard time period condition, condition 1 which states;

*"The development hereby permitted shall be begun before the expiration of three years from the date of this permission".* The date of the permission was 30<sup>th</sup> September 2008 so the required commencement date would be 30<sup>th</sup> September 2011. An enforcement officer attended the site investigating in 2012 and the closure note from 29<sup>th</sup> January 2013 (after the required commencement date) states;

*"At present no works have commenced with regards to the planning permission 08/01823/FUL, so prior to any works starting the owner and agent has been advised that a new application will be required. Case Closed."*

The owner who was advised at the time is the same party appealing this notice. Correspondence from the officer to the owner and the agent instructed at the time advising of the requirement to submit a new planning application given the lapse in application 08/01823/FUL is included at appendix 3 this clearly indicates the Council's position that the permission had lapsed and in order to commence any development

relating to the application a new planning application would be required. Photos from a visit 12<sup>th</sup> April 2012 indicating no commencement can be found at appendix 4.

2.2 On the 29<sup>th</sup> May 2013 building control application 10/05069/OTHFP for Three storey and second floor extensions, and internal alterations is confirmed to have commenced. The applicant listed is Mr M Field (the appellant). The application was received 10<sup>th</sup> September 2010, however the commencement date listed is the 29<sup>th</sup> May 2013. As such the Council consider that the works did not commence in time and the planning permission had lapsed, meaning there is no extant permission relating to 08/01823/FUL available to be implemented.

2.3 There was also a pre commencement condition on decision 08/01823/FUL, condition 2 which states:

*“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. Reason: To ensure that the development presents a satisfactory appearance in the interests of the amenities of the area.”*

This condition was not discharged, and there is no evidence of materials being submitted this is a further indication that the works were not commenced within the time period or in accordance with the planning permission. The Council confirmed in the correspondence at appendix 3 that they considered this to be a condition precedent and that due to the non-compliance the permission would no longer be extant even without the non-compliance within the required time period. The agent instructed at the time alludes to submission of details and commencement even without there being an existing planning permission and is clearly told this would not be acceptable and a new planning application would be required prior to any commencement. Despite this the appellant chose to commence and construct a development that has no planning permission.

2.4 Notwithstanding the above, the scheme approved by 08/01823/FUL was never completed and it is considered that the development on site is materially different from what was approved and so the original permission could not be said to have commenced. Multiple variations to the original scheme have been submitted and refused, it would appear that notwithstanding the fact that the permission has lapsed the owner did not intend to implement the approved scheme. This is further evidenced by the appeal against a refusal to grant planning permission that has been linked to this appeal. If the appellant had wanted to build out the 08/01823/FUL permission, or revert to it than it is unclear why he has not done so and instead has built a different scheme on site as to what was approved and submitted multiple applications with variations to the scheme.

2.5 The purpose of the notice is to remedy the breach of planning control. Nothing short of reversion to the original dwellinghouse would satisfy the purpose of the Notice. Detailed consideration as to whether there is an alternative option that would remedy the injury to amenity at less cost and disruption has been given. However it is not considered that there is an obvious alternative and the owners have failed to find an acceptable solution with the LPA through the pre app process or any subsequent planning application. The latest application refused changes very little about the development. It is not the Council's role to design an alternative scheme that would remedy the identified harm. Time has been afforded to the owner to submit alternative schemes, and to appeal one but it has not led to an acceptable scheme.

2.6 The correct process should the appellant wish to develop the scheme outlined and approved under 08/01823/FUL is to submit a new planning application, as they were previously advised. The development could then be assessed against current policies, and determined accordingly although it would appear the appellant does not wish to develop the site in the manner previously outlined.

2.7 The Council has put together the steps with options taking the information it holds as to the development on site previously to ensure the requirements are fair and clear.

2.8 For the above reasons the Council believe this ground g) appeal must fail.

### **3. Ground (F); the time given to comply with the notice is too short**

3.1 The 12 month period is considered to be a reasonable period of time for compliance with all aspects. No information has been provided as to why further time is required, information from a building company outlining the date they could conduct the works or any argument to show justification of the longer period of 24 months.

3. For the above reasons the Council believe this ground f) appeal must fail.

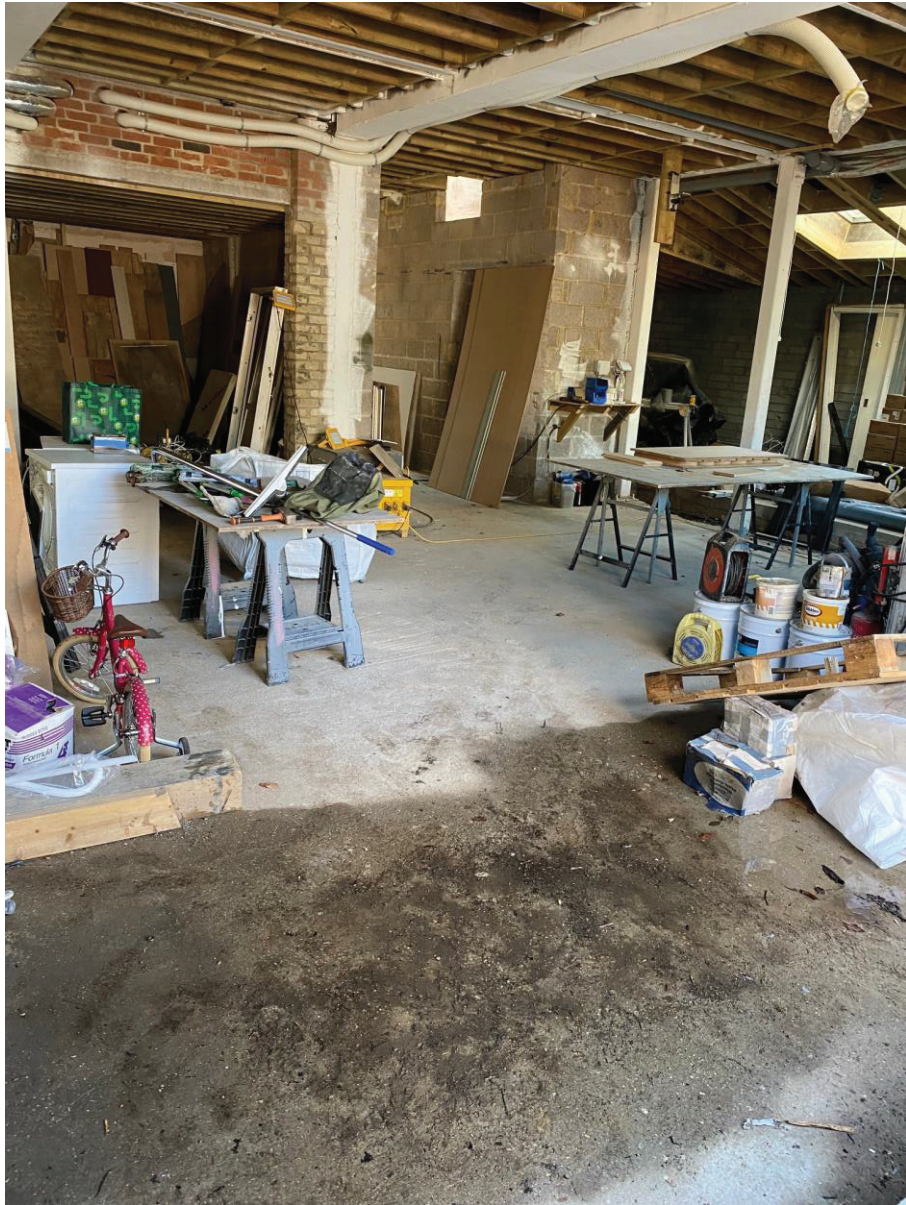
### **4. Conclusion**

3.1 In all the circumstances of this appeal the inspector is respectfully requested to dismiss the appeal and uphold the terms of the enforcement notice.

Appendix 1; Site photos taken by Officer 18<sup>th</sup> March 2022



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**MEMO**

**FROM:** Kate Longley

**OUR REF:** 20/00134/BCOND

**TO:** Service lead legal

**DATE:** 23<sup>rd</sup> August 2022

**Type of notice to serve:** Enforcement notice

**Land registry title number(s):** HP554709

**Statutory power:** The Town and Country Planning Act 1990 (as amended)

**Location/address of land to which the notice will relate:**

Stratton, Highways Road, Compton, Winchester, Hampshire, SO21 2DF

**Notice to be served on:**

Michael John Field of Stratton, Highways Road, Compton, Winchester, Hampshire SO21 2DF

Jennifer Anne Field of Stratton, Highways Road, Compton, Winchester, Hampshire SO21 2DF.

The Occupier, Stratton, Highways Road, Compton, Winchester, Hampshire, SO21 2DF

(considered to be a good idea as the owners have children some of whom are over 18).

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

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Please find attached a draft Enforcement Notice in respect of the above breach of planning control.

**Would you please arrange to serve the notice as set out in the draft or in terms you consider appropriate ASAP.**

**Introduction**

It appears to the Council that the property has been extended significantly above what was approved by 08/01823/FUL. The works are not in accordance with the approved plans, the works did not commence in time for the 08/01823/FUL to remain extant (decision notice for 08/01823/FUL attached). As such the Council consider that 08/01823/FUL has lapsed and is no longer capable of lawful implementation.

The notice seeks to ensure that the unauthorised development is removed and the property returned to its original form prior to works. The agent and owner have alluded to commencement occurring but have provided no evidence. The Council has correspondence showing the owner was advised a new application would be required as it was not considered that works had commenced within the required time period outlined in condition 1 of application 08/01823/FUL that is by 30th September 2011.

### **The site and surrounding area**

The property is an extended two storey detached dwelling. Served by two driveways originally with a garage to the rear. The development is situated in the settlement boundary of Otterbourne, to the north of Highways road. The property had a permission in 2008 which included various extensions and alterations this also approved the extended dwelling to be finished in white render with hanging clay tiles and clay roof tiles. Highways road is characterised by two-storey dwellings with no set building line, with varying designs; however they retain traditional external appearances. Despite the varying design there is a consistent character to the street comprising red brick and dark tiles.

The development as constructed includes a new roof at an increased height of 0.98m above the approved ridge height, an amended roof tile from a more in keeping design to a light zinc and an addition of roof lights.

### **Relevant planning/enforcement history:**

03/01873/FUL - Two and a half storey rear extension. ***Refused on the 24<sup>th</sup> September 2003.*** (Decision notice at appendix).

Refusal reasons:

The proposed development is contrary to policy UB3 of the Hampshire County Structure Plan 1996-2011 (Review), proposal EN5 of the Winchester District Local Plan and would be likely to prejudice emerging proposals of the Winchester District Local Plan Review Deposit and Revised Deposit in that it would;

- i) By reason of its massing and bulk would dominate the original property adversely affecting its character and would be detrimental to the visual amenities of the streetscene;
- ii) Result in an excessive building bulk adjacent to an existing residential property that would be detrimental to the visual outlook and amenities of the occupiers of that property.

08/01823/FUL – two storey front, side and rear extensions; alterations and new roof over existing house. ***Approved on the 29<sup>th</sup> September 2008***

12/00032/MIXED – Alleged extension to existing workshop and storage of industrial items. ***Closed 29<sup>th</sup> January 2013***

15/00029/COU - Alleged landscaping business operating from site. ***Closed 15<sup>th</sup> January 2016***

20/00134/BCOND - Alleged not building according to planning application 08/01823/FUL and unauthorised outbuildings/ change of use of outbuildings. ***Pending consideration (current file).***

20/00250/BCOND - Alleged installation of windows without planning permission. ***Closed 20<sup>th</sup> October 2020 as duplicate.***

21/00782/HOU - (AMENDED PLANS) 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). **Refused 12<sup>th</sup> August 2021 and appeal dismissed 3<sup>rd</sup> February 2022.** (Refusal and appeal decision uploaded at appendix.)

No other relevant history.

**The relevant evidence/issues:**

29<sup>th</sup> January 2013 – Note on Enforcement file 12/00032/MIXED;

At present no works have commenced with regards to the planning permission 08/01823/FUL, so prior to any works starting the owner and agent has been advised that a new application will be required. Case Closed.

12<sup>th</sup> February 2015 – Photos on file show that works have not commenced in regards to 08/01823/FUL.

29<sup>th</sup> May 2013 – The building operation on site are shown on building application 10/05063/OTHFP to have commenced. Condition 1 on application clearly states; *“The development hereby permitted shall be begun before the expiration of three years from the date of this permission.*

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

As such the works commenced as of this date with no planning permission.

30<sup>th</sup> September 2019 – Building control inspection notes; *“Steel work to the front elevation of the house now in place as per the design. Roof works to be carried out next. Walls have 130mm of PIR board to them with ventilation provisions behind the cladding.”*

No roof on at this stage – not substantially complete.

20<sup>th</sup> January 2020 – BC site notes; *“Roof rafters are now in place as per the design. Builder mentioned that some changes to the design had occurred so I requested some copies of the new plans.”* Roof still not implemented so not considered to be substantially complete as of this date.

4<sup>th</sup> September 2020 – Site visit conducted. Officer advised works not in accordance with approved plans, notwithstanding lapse of permission. Notes confirm that side extension extended to the front and rear to join the garage as a wraparound. Additional velux windows installed and they are not in the approved location. Roof joined at the top as oppose to including the gap between ridges. Rear elevation extended. The owners are occupying an outbuilding which has been extended multiple times.



2<sup>nd</sup> October 2020 – The Council received notification that works were being undertaken, notwithstanding the lapsed permission, that were not in accordance with the approved plans. Specifically; *windows have been altered from what was granted by planning permission. There are now 8 windows instead of the agreed smaller three windows.*

2<sup>nd</sup> October 2020 – Letter sent to owner confirming that the development requires planning permission that does not appear to have been granted. Requesting a retrospective application within 28 days and confirmation of intentions within 7 days.

4<sup>th</sup> October 2020 – The Council received further notification that works were being undertaken not in accordance with approved plans specifically;

- The number and position of windows, particularly in the third storey
- Total area of the site covered by the building
- The extent of the site covered by buildings not included in the planning approval, permitted development having been removed
- Working hours

This also referenced a converted building being lived in on site. Stating that the property was originally occupied then when the works began conversion of an existing outbuilding occurred (approx. 6 years prior) and this was the occupied. Concerns about this becoming the main residential dwelling separate to the main property. Also seems to reference construction of a new outbuilding.

9<sup>th</sup> October 2020 – agent email confirming that they are seeking advice in relation to the deviations to the approved plans. In regards to the outbuilding occupation and extension the agent stated the outbuildings in the rear garden of the property were extended in and around 2009 as a Gym / Cinema room. They were built by the client within permitted development tolerances, however, they have, in any case, been in situ for more than 4 years and are therefore lawful – the buildings can clearly be seen in aerial photos available online and on Google Earth. The client and his family moved into the buildings as the building work to the dwelling progressed. This was only supposed to be a temporary measure, although has taken far longer than anticipated. As the dwelling is currently uninhabitable, they are permitted to use the outbuildings within the garden as temporary accommodation as the entire property remains in a single planning unit and



## Appendix 2; Officer memo for enforcement action

no material change of use has occurred. The use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse - which the courts have held can include residential use (e.g. Uttlesford, Whitehead, etc) - is not development in any case under Section 55 (2)(d) of the Act.

29<sup>th</sup> October – agent/owner advised waiting for a digital survey prior to submitting for pre application advice.

9<sup>th</sup> December 2020 – comp email received requesting update, given the 28 day timeframe had lapsed and confirming that works on site have continued including a single storey western extension.

9<sup>th</sup> December 2020 – email sent to comp to confirm correspondence from the owner and agent confirming a digital survey is required. Following this they intend to submit for pre application advice.

9<sup>th</sup> December 2020 – officer email to agent/owner requesting update. Email also sent to confirm the incidental use of the outbuilding would be permitted, including residential use. Also advising that once building works have progressed to the point of habitation kitchen facilities to be removed and outbuilding to no longer be used as a self-contained unit.

10<sup>th</sup> December 2020 – confirmation digital survey received, citing covid as delay email sent to arrange pre app discussion.

9<sup>th</sup> February 2021 – officer chasing pre app discussion.

10<sup>th</sup> February 2021– Confirmation received no pre app discussion held as of yet. Owner advised needs to speak to agent to arrange.

1<sup>st</sup> March 2021 – Officer chasing pre app discussion.

19<sup>th</sup> March 2021 – application 21/00782/HOU submitted.

9<sup>th</sup> April 2021 – confirmation that no action to be taken until planning application 21/00782/HOU is determined.

12<sup>th</sup> August 2021 – officer confirmation that application 21/00782/HOU refused. Documents attached at Appendix.

3<sup>rd</sup> February 2022 – Appeal decision for APP/L1765/D/21/3286123 issued – dismissed. Documents attached at appendix.

8<sup>th</sup> February 2022 – Email to advise meeting to discuss changes as some aspects considered acceptable.

22<sup>nd</sup> February 2022 – Officer Discussion with agent. No timeframe for remedial works but advised that certain aspects will be applied for as they believe the inspectorate indicated acceptability on these aspects. The rooflights were considered to have no undue overlooking concerns within the appeal decision however this relates to the extended roof height and overall the development was deemed unacceptable. The lower roof height will mean a different impact in terms of overlooking and the officer report is clear

that the Council considers these aspects unacceptable. Notice to be drafted. Agent advised that they believe the works will take 12 months as will need to instruct the original roofer due to warranty.

The outbuilding – This is to be considered separately.

#### The main dwelling

The development as constructed has no planning permission. Application 08/01823/FUL did not commence within the time period specified within Condition 1 which states; *“The development hereby permitted shall be begun before the expiration of three years from the date of this permission.*

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

The decision was issued 30<sup>th</sup> September 2008 and so would have needed to commence by 30<sup>th</sup> September 2011.

There was also a pre commencement condition on decision 08/01823/FUL, condition 2 which states:

*“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.*

*Reason: To ensure that the development presents a satisfactory appearance in the interests of the amenities of the area.”*

This condition was not discharged, and there is no evidence of materials being submitted this is a further indication that the works were not commenced within the time period or in accordance with the planning permission.

The purpose of this notice is to remedy the breach of planning control. Nothing short of reversion to the original dwellinghouse would satisfy the purpose of the Notice. Detailed consideration as to whether there is an alternative option that would remedy the injury to amenity at less cost and disruption has been given. However it is not considered that there is an obvious alternative and the owners have failed to find an acceptable solution with the LPA through the pre app process or any subsequent planning application. The latest application refused changes very little about the development. It is not the Council's role to design an alternative scheme that would remedy the identified harm. Time has been afforded to the owner to submit alternative schemes, and to appeal one but it has not led to an acceptable scheme. The correct route for determining any alternative scheme is a planning application. As such the Council must seek the removal of the development in its entirety.

As of the date of writing this report the unauthorised development remains and no evidence has been submitted to show that the works commenced for 08/01823/FUL within the time period specified in condition 1. Enforcement file 12/00032/MIXED shows

that the owner was clearly advised that a new application would be required as works had not commenced within the required time period. It is also noted that another scheme has been submitted for the Councils assessment, this is likely to further delay works as the agent has indicated they would like to wait until the application is determined before commencing any works. In any case this revised scheme has been refused (decision and plans attached).

The agent has indicated that as a minimum 12 months would be required as the works will need to be undertaken by the original contractor to preserve the warranty. This relates purely to the amendment to the roof.

Therefore as there is no existing planning permission the dwelling must revert to the original dwelling as permitted.

The four-year rule at sec.171B (1), provides immunity from enforcement for operational development.

An important proviso of sec.171B (1) is that immunity is achieved at the end of a four-year period commencing when the operations were substantially completed. Cancelled Circular 10/97 advised that "substantial completion" must always be a matter of fact and degree. However, it explained that a building is arguably not completed until all the external walls, roof tiling, woodwork, guttering and glazing are finished. It is clear from building control inspections that as of September 2020 the roof had not been completed photos on the file also show this the windows had also not been completed and the render/finishing remained to be completed.

The fact that a building has already been put to its intended use is also stated to be evidence of "substantial completion". As of the date of writing this report the building is still not in use as a residential dwelling and remains vacant.

It is considered that the unauthorised operational development has not been in situ in excess of 4 years and remains within the enforcement timeframe.

**Consultations:**

None applicable.

**Planning policy:**

**Statutory background:**

The Town and Country Planning Act 1990 (as amended)  
The Town and Country Planning (General Permitted Development) Order 2015 (as amended)  
Human Rights Act 1998  
Equalities Act 2010

**National policy/guidance:**

**National Planning Policy Framework (NPPF):**

The National Planning Policy Framework was published on July 2021 and sets out the Government's planning policies for England and how these are expected to be applied. A number of sections are of relevance to this case, including:

- Chapter 4 – Decision making
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

**Local policy/guidance:**

Winchester District Local Plan Part 1 (2013)

- DS1: Development Strategy and Principles
- CP13: High Quality Design
- MTRA3: Other Settlements in the Market Towns and Rural Area

Winchester District Local Plan Part 2 (2017)

- DM15: Local distinctiveness
- DM16: Site Design criteria
- DM17: Site Development principals

Supplementary Planning Document

Winchester District High Quality Places Supplementary Planning Document  
Compton & Shawford Village Design Statement November 2011

**Planning considerations:**

The relevant material considerations are:

- The impact on the character and appearance of the area

Principle of development

The development is situated in the settlement boundary of Otterbourne, where the principle of development is acceptable, provided that the development is in accordance with the policies of the Development Plan and unless material planning reasons indicate otherwise.

Impact on Property and Character of Area

The National Planning Policy Framework (NPPF) attaches great importance to the design of the built environment. Paragraph 134 states that "*Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design<sup>52</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes.*"

The property had previous planning permission in 2008 which includes various extensions and alterations to the previous dwelling, this did not commence within the required period specified in condition 1 and has therefore lapsed and is no longer capable of implementation. The current unauthorised works constitute a two-storey front extension, side and rear extensions, alterations and a change to the roof and glazing.

The site is located to the north of Highways Road, a residential road predominantly comprising two-storey detached houses of red/brown brick construction and tiled

roofs. There is no one clearly discernible architectural style or age of property, but there is a relatively simple and inoffensive visual cohesion to the dwellings of Highways Road, resulting from the retention of their traditional external appearances in materials, scale and form with some set back from the road giving the area a leafy suburban feel with some prevailing characteristics as one moves along the public realm. The development as undertaken is not in keeping with this, does not fit this rhythm and is instead highly incongruous within the street scene. The building as currently seen on site is finished in a grey render on all external elevations and has a light grey zinc roof with 12 very large rooflights spread across the 2 sides of the roof. The previous inspectorate decision referred to the dwelling as having a design '*more akin to an aeronautical building*'.

The previous 2008 decision approved a finish of white render, yet maintained a traditional form although larger in size and used hanging clay tiles and clay roof tiles. The dwelling as built has a zinc roof and grey painted render elevations not in keeping with the surrounding area and unsympathetic to the previous dwellings design. The impact of the significant contrast in materials and departure in design is further accentuated by the dwellings forward projection and overall height, giving rise to a building of a scale and appearance that is unsympathetic to its surroundings.

The overall design of the resultant dwelling has therefore failed to consider and respond to the detailing and character of the existing dwelling and the context of Highways Road contrary to policies DM15, DM16 and DM17 of LPP2. The increase to the height has also led to an increased dominance over the neighbouring property Mead Cottage.

The previous permission allowed for a contemporary design with an increase in the ridge-height, however this would still have been set lower than the neighbouring property to the east with the design approach including the break in the roof which would reduce the mass of building when viewed from the street. The building as constructed with an increased height also loses the break in the roof. Although amended plans had been received to re-introduce this element to the front it does not carry through the roof to the rear and the increased height remains. The proposed increase to the roof height causes a significant increase to the massing and bulk to the roofscape of the dwelling, whilst the two-storey front extension adds to the overall bulk of the dwelling to the front which is clearly visible from the public realm which is considered to be harmful. The building as approved was considered to have resulted in an acceptable level of impact to the visual amenities of the area as a contrast to the original dwelling. Introducing more contemporary forms and materials can be an acceptable way to modernise older dwellings and can be acceptable in principle. The inspectorate for the appeal APP/L1765/D/21/3286123 commented on the design as follows;

*"Stratton is highly incongruous within the street scene and appears more akin to an aeronautical building in terms of its design, and through the extreme contrast and use of materials, namely the zinc roofing and grey painted render elevations; these are accentuated by the dwelling's forward projection and overall height, giving rise to a building of a scale that is unsympathetic to its surroundings."*

The development is contrary to the NPPF 2021 para 126 which requires the creation of high quality, beautiful and sustainable buildings, the development does not constitute good design which is a key aspect of sustainable development and the NPPF 2021 para 130, as it fails to be visually attractive and is unsympathetic to local character. The development is contrary to Policies CP13, DS1 and MTRA3 of the Winchester District Local Plan Part 1 and Policies DM15 and DM16 of the Winchester District Local Plan

Part 2 which together expect new developments to meet the highest standards of design, to respect the qualities, features and characteristics that contribute to the distinctiveness of the local area, including matters of scale and layout, whilst using high quality materials that are attractive and durable and appropriate to the context.

The development goes well beyond the limitations of the approved design (which is now out of time) having a demonstrably greater impact than the approved design would have and changing the appearance of the dwelling in a much more accentuated way failing to follow the parameters set for good design responses in the High Quality Places SPD regarding design, scale and positioning. Specifically in the following parts of the High Quality Places SPD; 3.1 - 3.7, 6.1-6.12, 6.17-6.26, 6.42-6.52, 7.1-7.8, 7.31-7.33, 7.54-7.61, 7.73-7.75 and Part 8.

The Compton & Shawford Village Design Statement November 2011 characterises houses in the area as generally set back from the road, in a linear aspect, with smaller front gardens and larger rear gardens. It also states that the existing form of linear development (such as that along Compton Street, within Compton Down, Southdown and Shawford) should be maintained. The linear character of the housing distribution can be seen in the map on the centre pages. Other forms of development should only be permitted where they would not adversely impact on the character of the area. As such the development is contrary to The Compton & Shawford Village Design Statement November 2011.

The development is therefore contrary to policies DS1, CP13 and MRTA3 of the Winchester District Local Plan Part 1, policies DM15 and DM16 of the Winchester District Local Plan Part 2, the Winchester District High Quality places SPD, The Compton & Shawford Village Design Statement November 2011 and the requirements of the NPPF 2021.

#### Impact on residential amenity

As highlighted in the appeal APP/L1765/D/3286123 the scheme 'as built' has resulted in the removal of a number of wall mounted windows from both side elevations rendering them now as blank, but with the introduction of a greater number of rooflights. Due to their high level nature they are not considered to afford a material level of overlooking to either neighbouring residential property. The inspector commented that the attic window serving Fairfield is obscurely glazed, it is worth noting that without a condition to ensure it is kept this way it could be possible for this to be amended. Therefore, on the matter of living conditions alone, the Council see no reason to find differently to the inspector that there is no conflict between the proposal and criterion vii of Policy DM17 of the Winchester District Local Plan Part 2 which, amongst other things, requires proposals not to have an unacceptable adverse impact on adjoining land, uses or property by reason of overlooking or by being overbearing.

However it is worth noting that a large number of objections from the vicinity were received in relation to this development. The developer has been made aware of the concerns and also the fact the original scheme was out of time to be implemented and still continues to attempt to gain approval for the unacceptable scheme. Despite multiple refusals and an appeal refusal. Meaning that as of the date of writing the report no resolution has been reached and the Council are left with no option but to pursue enforcement action.

In summary, the unauthorised development is unacceptable and enforcement action is recommended in the form of an enforcement notice. The owner has been afforded ample opportunity to remedy the breach or submit alternative schemes without formal intervention but at this stage formal enforcement action is required.

**The reasons for issuing the notice:**

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

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 the Policy CP13, DS1 and MTRA3 or Winchester District Local plan part 1, DM15 and DM16 of Winchester District Local plan Part 2 and The High Quality Spaces SPD (Part 6, 7 and 8) and the Compton and Shawford Village Design Statement November 2011 and the requirements of the NPPF 2021.

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

**Recommendation and time for compliance:**

That an enforcement notice is issued requiring either of the following steps to be taken:

- (i) Demolish the extensions to the dwelling;
- (ii) Upon demolition reinstate the affected walls and roof of the dwellinghouse to the original dwelling prior to works  
OR  
Upon demolition reinstate the affected walls and roof of the dwellinghouse to the original dwelling prior to works as shown in the attached photos (appendix A)  
OR  
Upon demolition reinstate the affected walls and roof of the dwellinghouse to the original dwelling prior to works as shown in the attached plan (appendix B)
- (iii) Permanently remove from the land all materials, rubble, rubbish and debris arising from steps (i) to (ii).

Time for compliance for the notice: 12 months from the date the notice takes effect.

**Other courses of action considered but rejected**

***No further action***

This will result in the unlawful development remaining, with associated harm to matters of acknowledged importance and the identified harm would continue. Whilst the Council's powers to pursue action is discretionary, taking account of Government advice and the fact that it is considered to be contrary to planning policies for the area, it is therefore in the public interest, and a proportionate response to the harm caused, to take the proposed course of action.

### **Human Rights**

The Human Rights Act 1998 makes it unlawful for the Council to act in a way incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. In arriving at the recommendation to take enforcement action, careful consideration has been given to the rights set out in the European Convention of Human Rights including Article 6 (right to a fair trial), Article 8 (right to respect for private family life), Article 14 (prohibition of discrimination in enjoyment of convention rights) and Article 1 of the first protocol (the right to peaceful enjoyment of possessions). It is considered that where there is an interference with the rights of the recipient of an enforcement notice, such interference is considered necessary for the following reasons: the protection of the environment and the rights and freedoms of others. It is also considered that such action is proportional to the legitimate aim and in the public interest.

### **Service**

The notices are to be hand served where within the Winchester City Council area and via recorded post to others.

Fee = 2 x planning app fee £412 (£206 x 2). There have been applications submitted but not for the actual development on the site. The development in the previous applications is not considered to be of the same character or description as the development to which the enforcement notice relates. As such all the conditions outlined in regulations 8 and 9 of the 2012 Fees Regulations are not met and so the fee is required.

If you require any further information or wish to discuss the matter in more detail, please let me know.

Kate Longley  
Planning Enforcement Officer

01962 84801962 848 480 EXT 2602

### **Enclosed:**

I have attached;

- Appendix 1: 03/01873/FUL decision notice
- Appendix 2: 08/01823/FUL decision notice and relevant plans
- Appendix 3: 21/00782/HOU decision notice and relevant plans
- Appendix 4: APP/L1765/D/21/3286123 decision
- Appendix 5: 22/00932/HOU decision notice and relevant plans
- Draft enforcement notice
- Red line site plan
- Land registry

DELEGATED AUTHORITY

I, Lorna Hutchings, being duly authorised to act for and on behalf of Winchester City Council with the powers delegated to me as Planning Delivery and Implementation



Appendix 2; Officer memo for enforcement action

Manager, do hereby authorise the proposed enforcement action in accordance with the above report and attached draft enforcement notice.



Lorna Hutchings  
Planning Delivery and Implementation Manager  
Built Environment  
Winchester City Council  
Date 23.08.2022



**Winchester**  
City Council

**Development  
Services  
Planning**

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Winchester  
Hampshire SO23 0HU  
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website [www.winchester.gov.uk](http://www.winchester.gov.uk)

Mr And Mrs M J Field  
Stratton  
Highways Road  
Compton  
Winchester  
Hampshire  
SO21 2DF

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

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<b>REFUSAL OF PLANNING PERMISSION</b>	Case No:	03/01873/FUL
	Ref No:	W08667/01
	Grid Ref:	446405 124310

---

**Two and a half storey rear extension**

**Stratton Highways Road Compton Winchester Hampshire SO21 2DF**

In pursuance of its powers under the above mentioned Act, the Council, as the Local Planning Authority hereby **REFUSE** permission for the above development in accordance with the plans and particulars submitted with your application received on 29 July 2003

The reason(s) for the decision of the Local Planning Authority to refuse permission is/are specified hereunder:-

The proposed development is contrary to policy UB3 of the Hampshire County Structure Plan 1996-2011 (Review), proposal EN5 of the Winchester District Local Plan and would be likely to prejudice emerging proposals of the Winchester District Local Plan Review Deposit and Revised Deposit in that it would:-

- i) by reason of its massing and bulk would dominate the original property adversely affecting its character and would be detrimental to the visual amenities of the street-scene;
- ii) result in an excessive building bulk adjacent to an existing residential property that would be detrimental to the visual outlook and amenities of the occupiers of that property.



**Informatives:**

1. The Local Planning Authority has taken account of the following development plan policies and proposals:-

Hampshire County Structure Plan Review: UB3

Winchester District Local Plan Proposals: H1, EN5

Emerging Development Plan- WDLP Review Deposit and Revised Deposit: H2, DP3



Director of Development Services  
24 September 2003

**Planning  
Control**

City Offices  
Colebrook Street  
Winchester  
Hampshire  
SO23 9LJ

tel 01962 840 222

fax 01962 841 365

telephone calls may be recorded

website [www.winchester.gov.uk](http://www.winchester.gov.uk)

Mr Barrie Willacy  
17 St Johns Street  
Hythe  
Hampshire  
SO45 6BZ  
England

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

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GRANT OF PLANNING PERMISSION

Case No: 08/01823/FUL

W Ref No: W08667/02

Grid Ref: 446405 124310

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

**Stratton Highways Road Compton Winchester Hampshire SO21 2DF**

In pursuance of its powers under the above mentioned Act, the Council, as the Local Planning Authority, hereby GRANTS permission for the above development(s) in accordance with the plans and particulars submitted with your application received on 29 July 2008 and subject to compliance with the following conditions:-

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

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

2 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.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the amenities of the area.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that order, with or without modification), no windows or openings other than those expressly authorised by this permission shall, at any time, be constructed in the eastern or western elevation(s) of the development hereby permitted.

Reason: To protect the amenity and privacy of the adjoining residential properties.



4 The first floor window(s) in the western elevation of the development hereby permitted shall be glazed in obscure glass and thereafter retained.

Reason: To protect the amenity and privacy of the adjoining residential properties.

**Informatives:**

This permission is granted for the following reasons:

The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

The Local Planning Authority has taken account of the following development plan policies and proposals:-

Winchester District Local Plan Review 2006: DP3

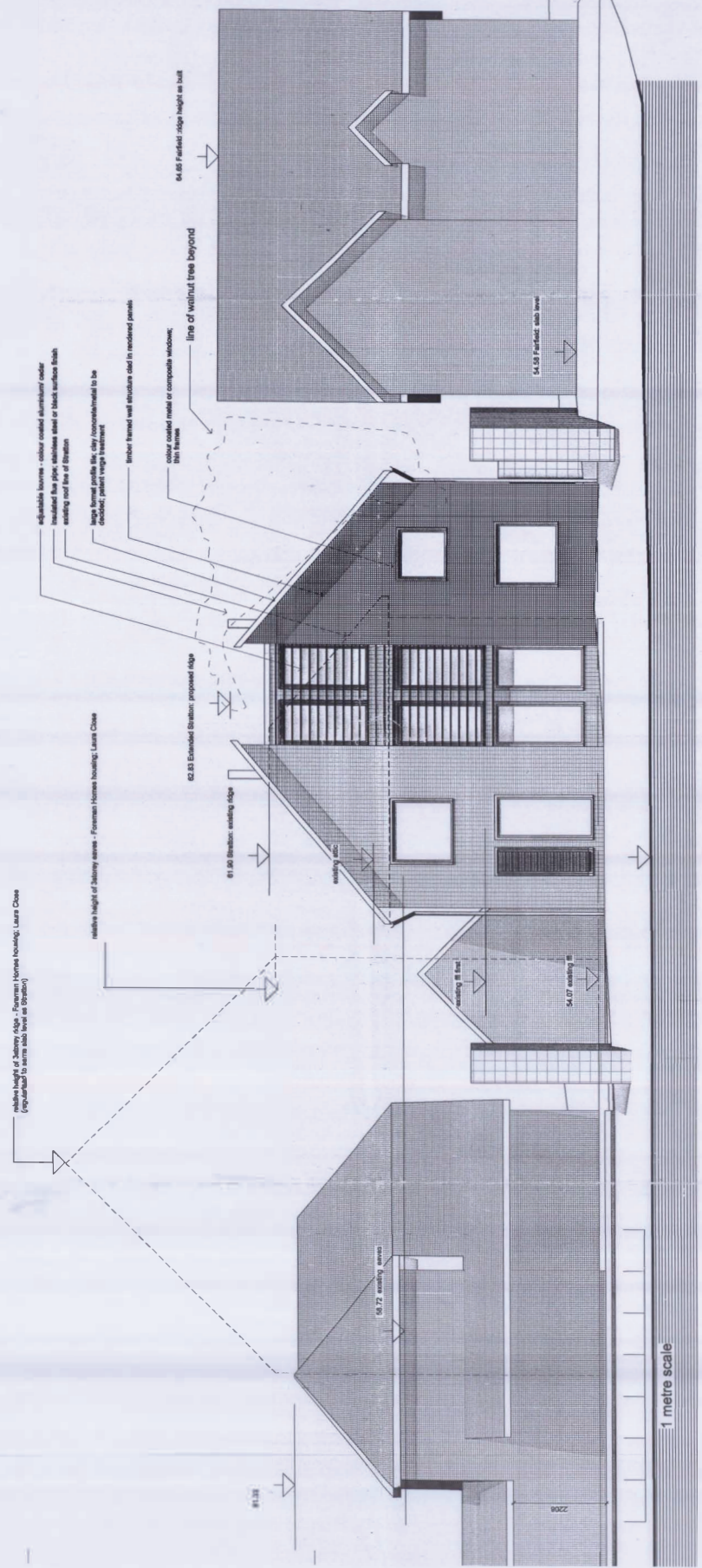
All works, including demolition and construction, should only be carried out between the hours of 0800 and 1800hrs Monday to Friday and 0800 and 1300hrs Saturday and at no time on Sunday or Bank Holidays. Where allegations of noise from such works are substantiated by the Health and Housing Service, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.

No materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.



Head of Planning Control  
30 September 2008

Appendix 2: 08/01823/FUL Relevant Plans (Not to Scale)



1 South  
1:50

Stratton; Highways Road; Compton - extension and alterations

South elevation - road frontage

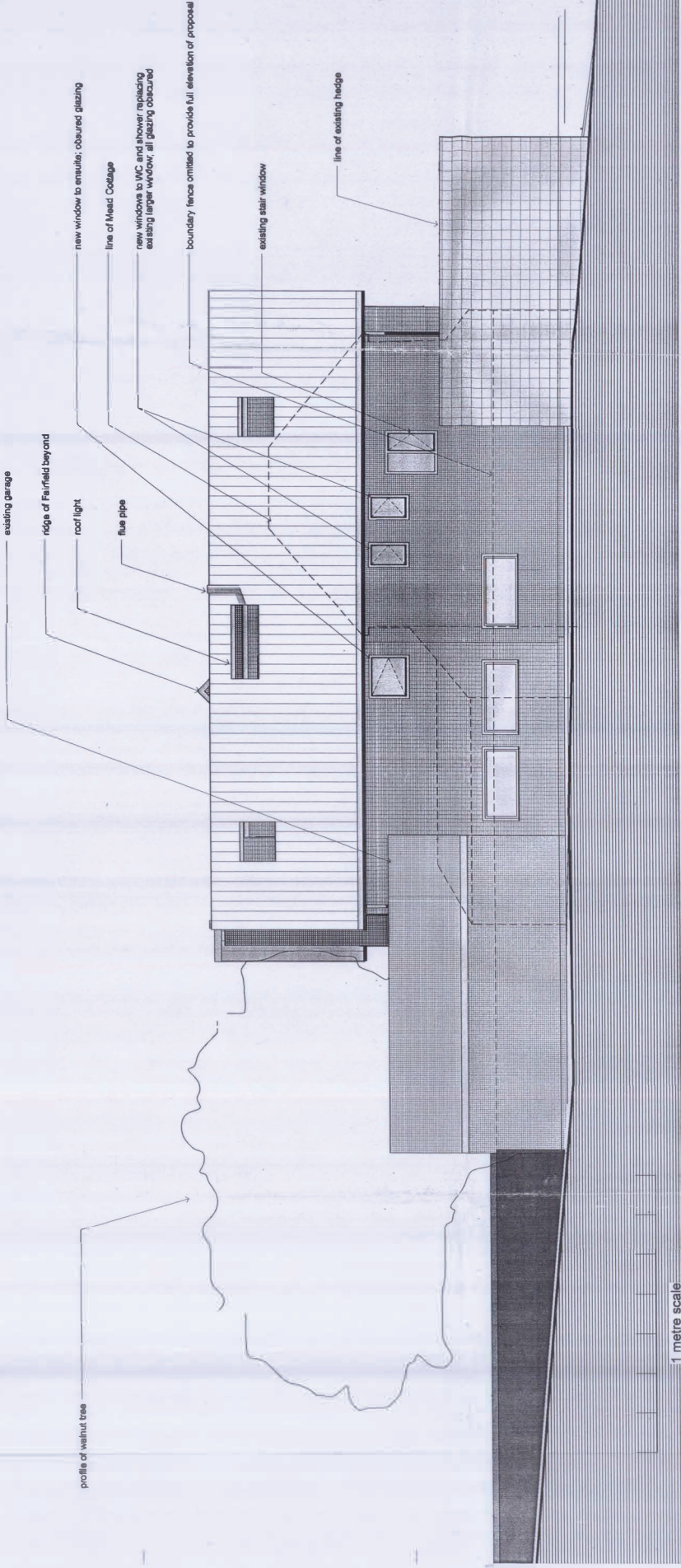
Scale: 1:50  
Date: Issue Date



(A1) landscape

Fie/107

Appendix 2: 08/01823/FUL Relevant Plans (Not to Scale)



1 West  
1 : 50

Stratton; Highways Road; Compton - extension and alterations

West elevation - to Mead Cottage

Scale: 1 : 50  
Date: Issue Date

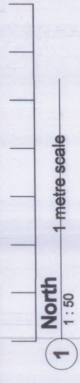
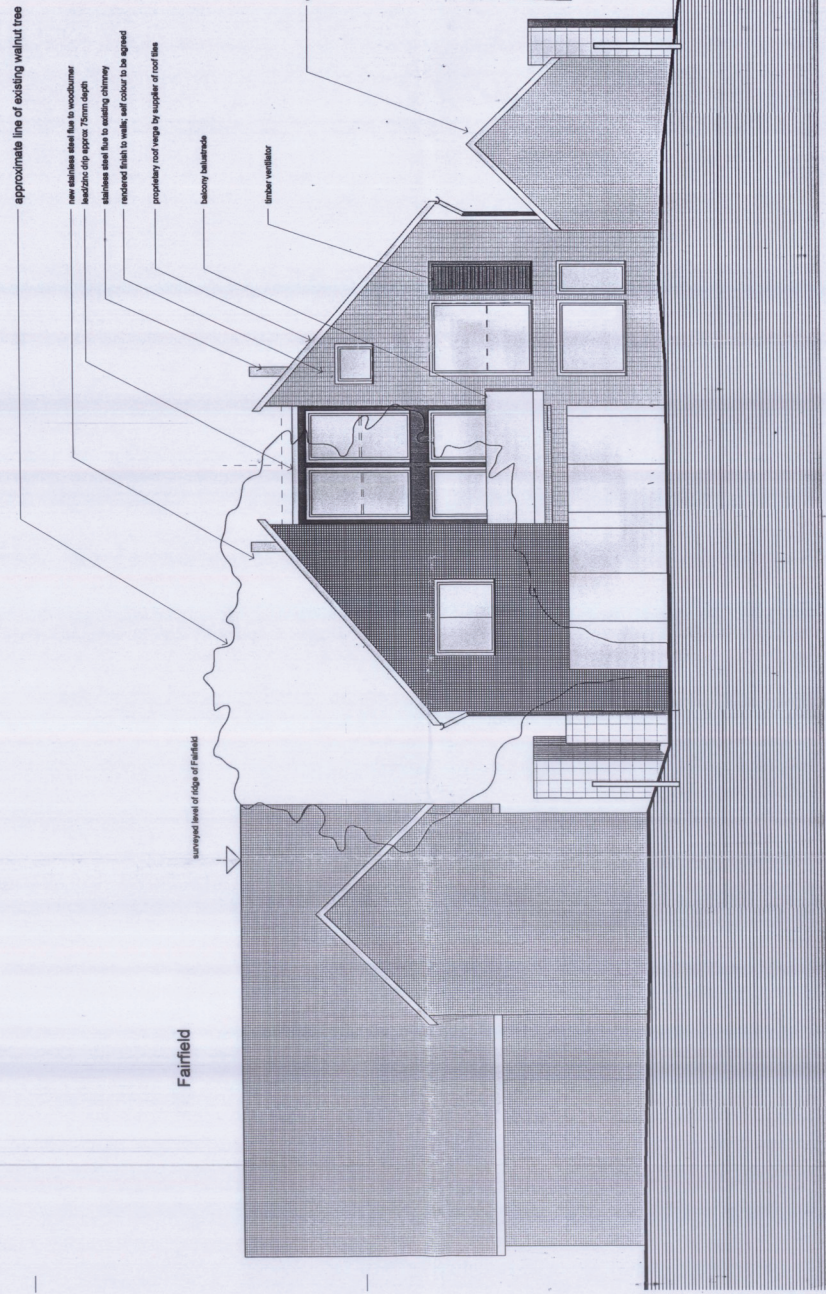
Project Address:  
100 Highways Road  
Stratton, Devon PL20 9AA  
Tel: 01839 593333  
www.burtonjones.co.uk



(A1 landscape)

File/104

Appendix 2: 08/01823/FUL Relevant Plans (Not to Scale)



Stratton; Highways Road; Compton - extension and alterations      North elevation - garden

Scale:	1:50
Date:	
Issue Date:	