



Appeal Decision

Site visit made on 3 March 2026

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2026

Appeal Ref: APP/L1765/C/23/3327152

Land at 2 Calpe Yard, St. Thomas Street, Winchester SO23 9HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Alastair Scott against an enforcement notice issued by Winchester City Council.
- The notice was issued on 29 June 2023.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a structure on the roof terrace."
- The requirements of the notice are:
 - (i) Demolish the structure (shown in the photographs at Appendix A)
 - (ii) Remove any resultant waste from the Land.
- The period for compliance with the requirements is three months after this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A considerable period has elapsed since the appeal was submitted and National Planning Policy Guidance (the Framework) has been updated. Given the grounds of appeal, the appellant and Council were provided with time to update their respective cases.
3. The Council identified changes to their emerging local plan and provided copies of relevant emerging policies. The Appellant confirmed they have no comments to make in respect of the emerging local plan policies. A supporting statement from a veterinary practitioner was provided and the Council had an opportunity to comment on its submission.
4. The Council adopted the Winchester Local Plan 2020-2040 on 24 March 2026 (LP). It has replaced the Winchester Local Plan Part 1 Joint Core Strategy (March 2013) (LP1) and the Winchester District Local Plan Part 2 Development Management and Site Allocations (April 2017) (LP2). The emerging policies upon which the appellant's views were sought have not changed, seeking the appellant's views on the LP's adoption is not therefore necessary.

The Appeal on Ground (a) and the Deemed Application for Planning Permission

5. The appeal property is within the setting of numerous listed buildings fronting and/or backing onto Little Minster Street and others located in this part of the Winchester City Conservation Area (the CA). I am aware of my statutory duty

arising from sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. The **main issues** are the development's effect on the character and appearance of the CA and the setting of the listed buildings.

Reasons

7. The reasons for issuing the notice refer to policy CP20 of the LP1 and policies DM15, DM16 and DM27 of the LP2. These policies have been replaced by policies HE1, HE2, HE3, HE5, H8 and HE10 which also seek to conserve and enhance the district's heritage assets and their significance by responding sympathetically to the qualities and characteristics that contribute to the distinctiveness of the local area, amongst other things.
8. I agree with the Council that being selective when identifying which heritage assets may be affected by the development is reasonable, given the large number of heritage assets within central Winchester. Furthermore, relying on the ability to experience the appeal site and a heritage asset within the same view is a reasonable factor to apply in determining whether the heritage asset is affected. While other, non-visual ways of experiencing heritage assets exist, the context of this development is such that its visual effect on the significance of heritage assets is key.
9. The Council's findings on which listed buildings may have their significance affected by the development's effect on their settings is well reasoned. In the absence of a similar exercise having been carried out by the appellant, I accept the Council's findings set out in section 3 of their Historic Environment Planning Consultation Comments. This identifies that the development affects the setting of listed buildings at 3 to 9 Great Minster Street, 10 to 14 The Square, 44 and 105 High Street, and 8 Little Minster Street (the identified buildings), as well as this part of the Winchester Conservation Area.
10. The identified buildings are listed for their historic and architectural value. They are largely commercial buildings, with their origins assumed to be co-dependent. Their group value, open frontages, and their uses add to the vitality and vibrancy of their setting and this part of the Winchester Conservation Area.
11. In comparison, the strong sense of enclosure and building heights gives Little Minster Street a quieter character, due to it largely performing service functions for the 'higher status' frontages of the adjacent listed buildings. The appeal site and its neighbours on the western side of Little Minster Street are generally taller and are more regular in appearance and form than the adjacent listed buildings, which have a wide variety of heights and forms.
12. The appeal site forms one of five narrow bays, with the top floor set back from the eastern elevation, reducing the visual height and bulk of the building as a whole. Its simple form and balanced composition make it less prominent in the street scene than its neighbours. Prior to the development taking place, the appeal site had a neutral effect on the contribution that setting makes to the significance of the identified buildings. It also made a neutral contribution to the character and appearance of the Winchester Conservation Area.

13. The structure may have a simplistic construction, consisting of a timber framework with light weight mesh cover. However, it fills the set back of the appeal site entirely. This renders the full height of this section of the building appreciable from ground level, which is visually discordant, and results in the structure having a domineering effect on the contribution that setting makes to the significance of adjacent listed buildings fronting Great Minster Street and The Square. I agree with the Council and find this harm is 'less than substantial' and lies at the lower end of the scale referred to in the Framework.
14. I saw that the structure is visible from High Street at its junction with Little Minster Street. The structure has a negligible effect on the setting of No105 due to the limited view and the separation distance. The view of the structure available adjacent to No44 is however 'framed', increasing its visual prominence and discordant appearance. The development thereby fails to preserve or enhance the skyline or respond sympathetically to the adjacent roofscape. Again, I agree with the Council and find this harm is 'less than substantial' and lies at the lower end of the scale referred to in the Framework.
15. The design and materials utilised in the structure are significantly different from those utilised in the surrounding roofscape. The appellant claims that permanent balustrades and pigeon netting on some buildings in the surrounding area have similar qualities to the development, thereby justifying its retention. However, I find those identified to be permanently affixed to their host buildings or of a considerably less solid appearance. The structure also differs from those developments due to its isolated intrusion in the symmetry of the host building, which detracts from its overall composition. The structure is not therefore a high quality development, and it has an unsympathetic and adverse impact upon the character and appearance of the CA.
16. Notwithstanding that the harm identified is less than substantial, in accordance with paragraph 212 of the Framework, I shall give great weight to it. The identified harm and great weight attached to it can only be outweighed by public benefits arising from the development.
17. I do not doubt having a secure outside exercise area is of benefit to the appellant's cat's health and well-being. I also accept that the mesh will prevent the cat from potentially falling from the roof terrace, while ensuring the cat has no direct access to birds. Any benefit arising from the development is therefore personal to the appellant. No public benefits capable of outweighing the heritage harm have therefore been identified.
18. While the structure may be able to be adapted or replaced with an alternative scheme, there is no such proposal before me for consideration. Furthermore, changing the colour of the structure would not address the concerns raised. Granting planning permission to retain the structure on a temporary basis would also not address the identified harm.

Conclusion on Ground (a)

19. For the reasons given above the development conflicts with policies HE1, HE2, HE3, HE5, HE8 and HE10 of the Winchester Local Plan 2020-2040 (March 2026). These policies seek to conserve and enhance the character and significance of heritage assets and their significance by responding sympathetically to the

qualities and characteristics that contribute to the distinctiveness of the local area, amongst other things.

The Appeal on Ground (g)

20. An appeal on this ground is that the period specified in the notice falls short of what should reasonably be allowed. It is the appellant's contention that 3 months is too short to allow them to either find alternative accommodation and move, or to re-home their cat. A period of 6 months is requested.
21. The property's constrained outdoor space would always have been apparent. It would be reasonable to conclude therefore that this factored into the appellant's decision either to move here or to keep a cat, whichever occurred first. The steps to be taken to remedy the breach do not require the appellant's residential use of the property to cease. Should the appellant choose to move or re-home their cat, it is not clear why alternative accommodation for them or their cat could be found within 6 months but not 3 months. It has not therefore been shown why 3 months is unreasonable.
22. Given the structure's construction and materials, it is unlikely that its demolition will involve mechanical equipment or specialist contractors. I therefore find 3 months to be a reasonable period for the requirements to be complied with.
23. The appeal on ground (g) fails.

Overall Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Madge

INSPECTOR