

FAREHAM

BOROUGH COUNCIL

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: FAREHAM BOROUGH COUNCIL (“the 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 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 TO WHICH THE NOTICE RELATES

Land at 71-73 St Margarets Lane, Fareham, PO14 4BG, shown edged red on the attached plan (“the Land”).

3 THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission,

- the material change of use of the Land to theatre use (sui generis); and
- an engineering operation to excavate and create an underground area beneath the Land.

4 REASONS FOR ISSUING THIS NOTICE

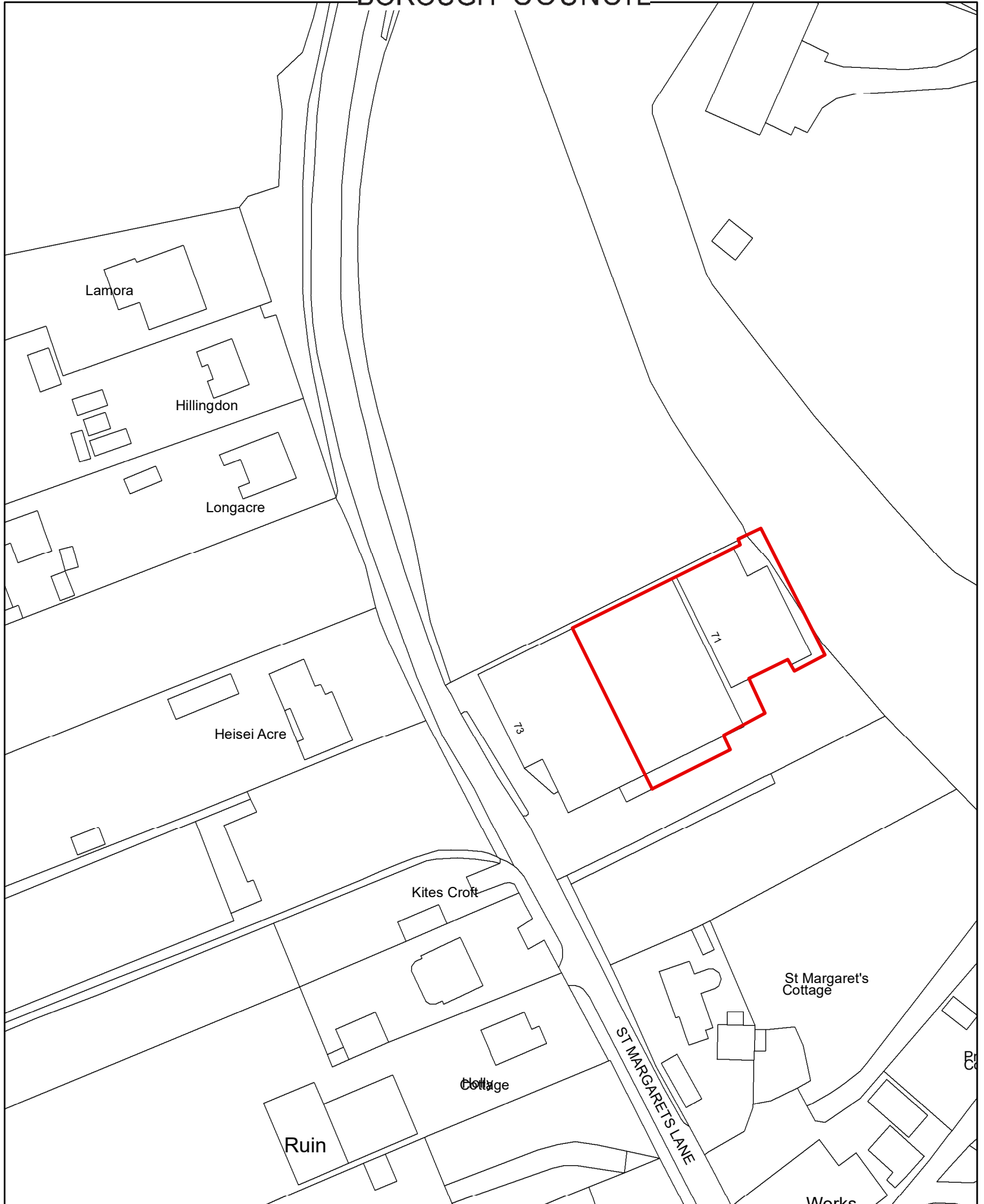
It appears to the Council that the material change of use of the Land to a theatre use has occurred within the last ten years.

It appears to the Council that the engineering operation to excavate and create an underground area beneath the Land has occurred within the last four years.

The development is contrary to Policies DS1, R2, D2, TIN1 and TIN2 of the Fareham Local Plan 2037 and is unacceptable in that:

FAREHAM

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71/73 St Margarets Lane
Titchfield

Scale 1:1,000



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- a) The theatre is a main town centre use located outside the urban area in an unsustainable and poorly accessible location. The development fails to promote sustainable and active travel modes, offer a genuine choice of mode of travel and reduce the need to travel by motorised vehicle;
- b) It has not been demonstrated that the development meets a demonstrable need for the use in this location and that there are no alternative sites in the centres or parades that are available, suitable or viable that could be considered sequentially preferable to the development site. It has not been demonstrated that the development would not cause significant harm to, or have a significant adverse effect on the vitality or viability of, the Borough's centres or parades;
- c) The development would result in a significant increase in noise from patrons arriving and leaving the building which would have an unacceptable adverse environmental impact on neighbouring occupants. Furthermore, in the absence of details of acoustic insulation measures for the building, the noise emanating from the building would have an unacceptable adverse environmental impact on neighbouring occupants; and
- d) Parking provision at the site is not acceptable which would have an unacceptable impact on highway safety.

The engineering operation to excavate and create an underground area beneath the Land is not in itself harmful but is associated with and necessary to the material change of use of the Land to use as a theatre. Its continued presence undermines the ability of the Land to be restored to a lawful use.

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

5 WHAT YOU ARE REQUIRED TO DO

- (i) Cease the use of the Land as a theatre;
- (ii) Backfill the excavated underground area beneath the Land with a suitable inert material (such as compacted aggregate, soil, or similar) to ground level;
- (iii) Dismantle the stage;
- (iv) Remove the seating;
- (v) Dismantle the lighting rig and PA or other sound equipment; and

(vi) Remove the resultant materials from carrying out steps (iii), (iv) and (v) from the Land except to the extent that those materials are solely being stored on the Land.

6 TIME FOR COMPLIANCE

- Step (i): two months after this Notice takes effect; and
- Steps (ii) – (vi): three months after this Notice takes effect.

7 WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 29th December 2023, unless an appeal is made against it beforehand.

Dated: 22nd November 2023

Signed


DIRECTOR OF GOVERNANCE, LEGAL & HR
RICHARD IVORY, Solicitor
Southampton, Fareham & Havant Legal Services Partnership
Southampton City Council
Civic Centre
Southampton SO14 7LY

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 Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet from The Planning Inspectorate sets out how to do this. Read it carefully.

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.

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.