



Planning Committee
Thursday 30 April 2015

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Unlawful development within the curtilage of a listed building at 8 Victoria Terrace,
Walsall

1.0 **PURPOSE OF REPORT**

Following the continued reviews of works being undertaken in connection with the new Arboretum Visitor Centre, this report seeks to advise the Committee in relation to works and development to 8 Victoria Terrace, Walsall along with land within the curtilage of the building.

8 Victoria Terrace, Walsall is a listed building, grade II, lying within a Conservation Area. The works which have been carried out to the building are an offence under the Town and Country Planning (Listed buildings and Conservation Areas) Act 1990, and the development within the curtilage of the building is unlawful as they do not meet the conditions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Further, this report advises the Committee on the measures needed to address the condition of the land and seeks authority to take enforcement action in respect of the unlawful development identified in the report, including the issuing of an Enforcement Notice.

2.0 **RECOMMENDATIONS**

- 2.1 **That authority is granted for the issuing of an Enforcement Notice** under the Town and Country Planning Act 1990 (T&CP Act 1990) (as amended) and a **Listed Building Enforcement Notice** under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, to require remediation works to be carried out to the property and its land as identified in this report, namely 8 Victoria Terrace, Walsall, and in accordance with the content of this report.
- 2.2 **To authorise the Head of Planning and Building Control to institute prosecution proceedings** in the event of non-compliance with an Enforcement Notice, the non-return of Requisitions for Information or a Planning Contravention Notice; and the institution of injunctive proceedings in the event of a continuing breach of control.
- 2.3 **To authorise the Head of Planning and Building Control to amend, add to, or delete from the wording set out below** stating the nature of the breach(es) the reason(s) for taking enforcement action, the requirement(s) of the Notice, or the boundaries of the site (in the interests of ensuring accurate and up to date notices are served).

- 2.4 **To authorise the Head of Planning and Building Control to institute prosecution proceedings** under section 9 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 as the person carrying out works to a listed building in the absence of a consent.

Details of the Listed Building Enforcement Notice

8 Victoria Terrace, Walsall – Unauthorised development

Without Listed Building Consent:

- Alterations to the front portico (porch) canopy to level the parapet, cornice, frieze and architrave into one single plane whilst also raising the parapet;
- The use of decorative scalloped lead flashing overhanging the external facing of the parapet of the portico canopy;
- The fixing of a sign reading *'OH! ALLAH BLESS OUR HOME'*;
- The replacement of sash windows with modern timber sash windows:
 - Four first floor windows across the front elevation (from 1-over-1 sash windows to 2-over-2 sash windows);
 - The replacement of all three sash windows in both front canted bay windows with modern timber sash windows (the central windows have been changed from 1-over-1 sash windows to 2-over-2 sash windows);
 - Two first floor windows on the east side elevation, on the main body of the house (from 1-over-1 sash windows to 2-over-2 sash windows);
 - Two first floor windows across the rear elevation (from 6-over-6 to 2-over-2 sash windows);
 - The replacement of the first floor (left most) sash window in the west facing elevation of the outrigger (towards No. 7) (from 3-over-3 sash window to a 2-over-2 sash window).
- Formation of a door from a window at first floor in the east facing elevation, to the left-hand end of the rear outrigger;
- The installation of a hand rail along the left-hand side of the flight of steps up to the main entrance.
- The installation of floodlighting:
 - At first floor level, either side of the window above the principle entrance on the south facing elevation;
 - At first floor level, to the left of the left-hand window on the east facing flank of the main body of the house;
- The installation of orange plastic rainwater inlet pipe on the east facing flank adjacent to the south-east corner of the building;
- The installation of hanging baskets and brackets:
 - Flanking either side of the main entrance portico on the south elevation;
 - Flanking either side of the garden room entrance on the east facing elevation;
- The installation of satellite dishes and associated external cabling on the east elevation;
 - On the main wing of the building at first floor level between the south-east corner of the building and the left-hand window;
 - On the main wing of the building at first floor level towards the north-east corner of the building above the single-storey garden room entrance;
 - On the outrigger at first floor close to the roof of the right hand canted bay window;
- The installation of extraction flue outlets:
 - On the rear elevation of the main wing of the house at first floor level, close to the north-east corner;

- On the east facing flank of the outrigger at first floor level, to the right of the right-hand canted bay window;
- The installation of cabling and electrical boxes to the external facing of the masonry:
 - On the front elevation at first floor level, running vertically adjacent to the south east corner;
 - On the east flank elevation at first floor level, running vertically adjacent to the south east corner;
 - On the east facing elevation of the outrigger, running vertically adjacent to the rear corner between first and second floor;
 - On the east facing elevation of the outrigger, running vertically adjacent to the rear corner at ground floor;
 - To the left of the central down pipe between the two canted bays on the east facing flank of the outrigger;
- The rendering to the masonry on the rear elevation of the single-storey outrigger to the end of the two-storey outrigger;
- The painting of the stone window surrounds 'olive green':
 - To the landing window cill on the rear elevation of the main wing;
 - To the first floor window cills of both east facing canted windows in the outrigger;
 - To the ground floor window cills and mullions of the east flank of the outrigger;
 - To the north facing window cill of the single-storey outrigger to the north/rear of the two-storey outrigger;
 - To the window cills of all windows in the west facing elevation of the outrigger;
 - To the window lintels and cills of all windows on the rear elevation of the main body of the building (to the west of the outrigger (adjacent to No. 7 Victoria Terrace));
- The positioning of a bath on the roof of the single-storey extension to the rear of the main body of the house;
- The insertion of ventilation holes along the underside of soffits on all elevation of the main building and outrigger at first and second floor level;
- The use of a brick finish and soffits to the finish of the single-storey extension to the rear of the main body of the house.
- Signage to gate posts:
 - To the left gate post reading '*M&T HOUSE*';
 - To the right gate post reading '*PRIVATE DRIVEWAY – NO UNAUTHORISED ACCESS – DO NOT BLOCK DRIVEWAY AT ANY TIME*'.

Steps required to remedy the breaches:

- Reinstatement of the architectural elements of the front portico (porch) canopy to reform the profile of the parapet, cornice, frieze and architrave in plaster or stone and finish in white paint so as to match the design and finish of the portico canopy of No. 7 Victoria Terrace in size, design, profile and finish;
- The removal of the decorative scalloped lead flashing from the portico canopy and replacement with a simple lead flashing with an apron that over hangs the parapet profile in a straight line of no more than 20mm overhang;
- The removal of the sign reading '*OH! ALLAH BLESS OUR HOME*', *making good the holes and painting over with white paint*;
- The removal and replacement or the remodelling of the following windows:
 - Four first floor windows across the front elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing

- bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
 - The two ground floor front facing canted bay windows to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those in the adjacent right hand canted bay window at No. 7 Victoria Terrace;
 - Two first floor windows on the east side elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
 - Two first floor windows across the rear elevation to form 6-over-6 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those at first floor on the rear elevation of No. 7 Victoria Terrace;
 - The first floor (left most) sash window in the west facing elevation of the outrigger (towards No. 7) to form a 3-over-3 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor to the rear elevation of No. 7 Victoria Terrace.
- Removal of the door at first floor in the east facing elevation, to the left-hand end of the rear outrigger, bricking up the lower section using matching bricks to the wider section of wall, using a matching bond, instating a stone cill (to match the height, position, design and form of the other first floor windows on the flank elevation of the main body of the house) and the insertion of a 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
- The removal of the hand rail along the left-hand side of the flight of steps up to the main entrance and the making good of any holes.
- The removal of floodlighting:
 - From first floor level, either side of the window above the principle entrance on the south facing elevation, making good the holes with matching mortar;
 - From first floor level, to the left of the left-hand window on the east facing flank of the main body of the house, making good the holes with matching mortar;
- The removal of orange plastic rainwater inlet pipe on the east facing flank adjacent to the south-east corner of the building and its replacement with black cast iron pipe of the same dimension.
- The removal of hanging baskets and brackets:
 - From either side of the main entrance portico on the south elevation, making good the holes with matching mortar;
 - From either side of the garden room entrance on the east facing elevation, making good the holes with matching mortar;
- The removal of satellite dishes and associated external cabling on the east elevation;
 - From the main wing of the building at first floor level between the south-east corner of the building and the left-hand window, making good the holes with matching mortar;
 - From the main wing of the building at first floor level towards the north-east corner of the building above the single-storey garden room entrance, making good the holes with matching mortar;
 - From the outrigger at first floor close to the roof of the right hand canted bay window, making good the holes with matching mortar;
- The removal of extraction flue outlets:

- From the rear elevation of the main wing of the house at first floor level, close to the north-east corner, making good the holes with matching mortar;
 - From the east facing flank of the outrigger at first floor level, to the right of the right-hand canted bay window, making good the holes with matching mortar;
- The removal of cabling and electrical boxes to the external facing of the masonry:
 - From the front elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;
 - From the east flank elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;
 - From the east facing elevation of the outrigger, running vertically adjacent to the rear corner between first and second floor, making good the holes with matching mortar;
 - From the east facing elevation of the outrigger, running vertically adjacent to the rear corner at ground floor, making good the holes with matching mortar;
 - From the left of the central down pipe between the two canted bays on the east facing flank of the outrigger, making good the holes with matching mortar;
- The removal of the render from the masonry on the rear elevation of the single-storey outrigger to the end of the two-storey outrigger, the making good of the brickwork and re-pointing using a lime mortar consisting of NHL3.5;
- The painting of the stone window surrounds white:
 - To the landing window cill on the rear elevation of the main wing;
 - To the first floor window cills of both east facing canted windows in the outrigger;
 - To the ground floor window cills and mullions of the east flank of the outrigger;
 - To the north facing window cill of the single-storey outrigger to the north/rear of the two-storey outrigger;
 - To the window cills of all windows in the west facing elevation of the outrigger;
 - To the window lintels and cills of all windows on the rear elevation of the main body of the building (to the west of the outrigger (adjacent to No. 7 Victoria Terrace));
- The removal of the bath from the roof of the single-storey extension to the rear of the main body of the house;
- The removal of ventilation holes along the underside of soffits on all elevation of the main building and outrigger at first and second floor level and the use of breathable felt under the slates for ventilation;
- Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C;
- Removal of the signage:
 - From the left gate post reading '*M&T HOUSE*', making good the holes with matching mortar;
 - From the right gate post reading '*PRIVATE DRIVEWAY – NO UNAUTHORISED ACCESS – DO NOT BLOCK DRIVEWAY AT ANY TIME*', making good the holes with matching mortar.

Details of the Enforcement Notice

8 Victoria Terrace, Walsall – Unauthorised development

Without planning permission:

- The erection of a pergola in the grounds of the listed building (2.4m to eaves, 3.3m to ridge, 3.7m wide and 4.1m deep);
- Modification of existing unauthorised excavation of earth and formation of retaining walls forming:
 - A proposed pump room measuring 3.8m wide, 7m long and 2.3m deep;
 - A proposed fish pond measuring 3m wide, 4m long and 1.4m deep;
- The covering of most of the land to the front (south) and east-side of the main body of the house with hard-standing comprising York paving, natural stone sets, decorative brick blockwork forming circle motifs and carriage crossing (extending onto land beyond the curtilage). This covers an area of approximately 350sqm;
- The use of a brick finish and soffits to the finish of the single-storey extension to the rear of the main body of the house.

Steps required to remedy the breaches:

- The removal of the pergola from the grounds of the listed building;
- The dismantling and removal from site of the retaining walls and infilling of excavation works forming:
 - A proposed pump room measuring 3.8m wide, 7m long and 2.3m deep;
 - A proposed fish pond measuring 3m wide, 4m long and 1.4m deep;
- The removal of the hard-standing to the front (south) and east-side of the main body of the house and replacement with soft landscaping;
- Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C.

PERIOD for compliance: 3 months

REASON for taking Enforcement Action: The development is harmful to the appearance of this Grade II listed building, the Arboretum Conservation Area and the Grade II Arboretum Registered Park and garden.

3.0 **FINANCIAL IMPLICATIONS**

The recommended programme of enforcement actions would utilise staff resources only.

An appeal against an Enforcement Notice could be subject to an application for a full or partial award of the appellant's costs if it was considered by an Inspector that the Council had acted unreasonably.

4.0 **POLICY IMPLICATIONS**

This report recommends enforcement action in order to seek compliance with listed building legislation: the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (T&CP(LB&CA) Act 1990).

Planning policies and statements within the NPPF and the Development Plan aid in both establishing the degree of harm caused by development to a listed building as well as within the curtilage of listed buildings and thus clarify the appropriateness of taking the discretionary action the Act empowers local planning authorities to take when offences and unauthorised works have taken place. These include the NPPF (specifically at paragraph 133) and the Walsall Unitary Development Plan 2005,

policies ENV27 (Buildings of Historic or Architectural Interest), and ENV29 (Conservation Areas).

The proposals within this report do not prejudice, in any way, the appropriate use of policy or the wider management of the Borough's historic environment.

5.0 LEGAL IMPLICATIONS

Section 7 of the T&CP(LB&CA) Act 1990 restricts any works to a listed building which affects its character in the absence of a consent. Section 9 goes on to make such works (in the absence of a consent) an offence. Pursuant to section 38 the local planning authority is empowered to issue a Listed Building Enforcement Notice setting out steps to remedy any harm, in addition to any prosecution steps which may be taken pursuant to section 9.

The Permitted Development allowance for development within the curtilage of Listed Buildings are withdrawn through the 'Conditions' section of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). As such, none of the works carried out within the curtilage of the dwellinghouse benefit from permitted development rights.

With regards the works to the listed building itself, this is not time barred and do not become lawful after a given period has expired.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising from this report.

7.0 ENVIRONMENTAL IMPACT

The works which have been carried out within the curtilage of this Listed Building referred to in this report may be considered harmful to the character and appearance of the building, the Arboretum Conservation Area and the Arboretum Registered Park and Garden. As such, this report seeks enforcement action to remedy those adverse environmental impacts.

8.0 WARD(S) AFFECTED

St. Matthew's

9.0 CONSULTEES

The Council's Development Management team have been consulted on this case and have confirmed their support for taking formal enforcement action as necessary to preserve the historic value and character of these properties.

10.0 CONTACT OFFICER

Andrew Fuller
Regeneration Officer (Conservation): 01922 655537

11.0 BACKGROUND PAPERS

Enforcement file not published

D Elsworthy
Head of Planning and Building Control

Planning Committee

30 April 2015

12 BACKGROUND AND REPORT DETAIL

12.1 Planning History

14/0107/FL: Removal of an unstable embankment in the Arboretum between the site of the proposed new visitor centre and No.8 Victoria Terrace and No.6 Buchanan Ave. The application includes engineering works to stabilise the embankment and restore the original boundaries. Granted permission subject to conditions on 14/03/2014.

11/1232/LB: Listed Building Consent: Porch to side. Refused on 08/12/2011.

07/0047/FL/H1: New swimming pool and replacement conservatory. Refused on 28/02/2007.

06/1608/TR/T1: To cut back limb from one Horse Chestnut and to crown-raise another to 3.5 m above water level of Arboretum lake. To fell 2 Ash trees. Refused on 01/11/2006.

06/1028/TR/T3: Crown lift 3 chestnut trees to 5m above ground level. Refused on 25/07/2006.

06/0476/FL/H1: New Conservatory. Refused on 15/05/2006.

06/0475/FL/H1: New conservatory. Refused permission on 15/05/2006.

05/2376/FL/H1: New security lights and CCTV cameras. Granted permission subject to conditions on 25/01/2006.

05/2377/LB/H1: Listed Building Consent: New security lights and CCTV cameras. Granted on 25/01/2006.

04/2334/LB/E5: Floodlights, CCTV Cameras and Timber Garden Shed. Refused on 28/01/2005.

04/2333/FL/E5: Retrospective Application for Timber Garden Shed & CCTV Cameras. Refused on 27/01/2005.

03/2468/LB/E5: Installation of two new windows to side of rear wing and two velux roof lights to rear elevation. Refused on 16/02/2004.

03/2472/LB/E5: Listed Building consent for external works. Withdrawn on 13/07/2006.

BC64373P/C: Alterations & extension to kitchen, bathroom extension & erection of walls, gates & fencing. Granted on 23/11/2001.

BC64395P/C: Listed Building Consent: Demolition of bathroom, greenhouse & garage. Erection of kitchen extension, bathroom & internal & external alterations to dwelling. Granted on 23/11/2001.

BC63767T/C: Prune two trees. Granted on 28/06/2001.

BC63769T/C: Pruning and felling trees. Granted on 28/06/2001.

BC18281: Removal of condition No.1 of planning permission P/37986. Granted on 06/08/1981.

P/37986: Use of coach house as separate dwelling. Granted.

P/32701: Change of use of dwelling house to hostel for adolescent boys. Granted on 09/02/1070.

P/32140: Erection of two blocks of 3 storey flats each containing 6 flats. Refused 03/10/1969.

None of the applications approved or refused directly affect the application currently under consideration.

12.2 **Legislation and Planning policy**

With regards works to the listed building:

Section 9 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, states that an offence is committed when unauthorised works to a listed building have taken place.

Section 38 states that *'Where it appears to the local planning authority (a) that any works have been or are being executed to a listed building in their area; and (b) that the works are such as to involve a contravention of section 9(1) or (2), they may, considering it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section (in this Act referred to as a Listed Building Enforcement Notice)'.*

There is no restrictions within the legislation limiting when action can be taken as offences are not time barred. With regards works that affect the listed building directly, this report does not, therefore, consider when the works took place.

With regards development in the curtilage of the listed building:

Section 172(1) of the Town and Country Planning Act 1990, states that *'the local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—*

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations'.

Section 171b(1) states that *'where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed'.*

Matters of enforcement are addressed directly through the primary legislation (T&CP Act 1990), however, the scope of action is to the discretion of the local planning authorities and is informed by national and local planning policy.

Whilst the building falls within a conservation area, its listing takes precedent and the relevant policies in the National Planning Policy Framework (NPPF) and the Development plan must be consulted in order to quantify the measures to be taken against offences.

The NPPF (2012) does not offer particularly useful policy guidance on this matter, however, the Development Plan is a key consideration. The Walsall Unitary Development Plan – 2005 (UDP) includes Policy ENV27 (Buildings of Historic or Architectural Interest). This policy states that *‘alterations, extensions or any **other form of development** involving a listed building **or its setting** will only be permitted where it can be clearly demonstrated by the applicant that the internal and/or external appearance, character and value of the building, its curtilage and the contribution the building makes to the surrounding area in which it is situated are not adversely affected by the proposals.’*

The conservation area status of the wider townscape is of equal importance considering the works that are currently being implemented in the Arboretum itself, restoring the embankment that Victoria Terrace is built on to the registered park and garden and wider conservation area. The following policies are also of importance:

Walsall UDP – Policy ENV29 (Conservation Areas) states under criteria (i) that *‘the Council will determine whether a development preserves or enhances the character and appearance of a Conservation Area in terms of ... **the degree of loss or alteration to property** which makes a positive contribution to the character of the area’*. In addition *‘the Council will not permit development within Conservation Areas that incrementally erodes those special features which the Council wishes to preserve and enhance’*.

Walsall UDP – Policy ENV30 states that *‘The Council will seek to protect the Borough’s registered parks and gardens from the effects of inappropriate built development and insensitive alteration. The special character and features contained within the park or garden will be considered when assessing development proposals, with particular reference to the area’s origin, design, history, landscape, flora, fauna, management and environmental quality’*.

12.3 **Introduction**

8 Victoria Terrace comprises a Grade II listing on the schedule of historic buildings held by the Department for Culture, Media and Sport (DCMS). It has been designated by English Heritage (the government’s advisory body on heritage). The continued management of these buildings falls chiefly to the local planning authority. The house forms part of a wider townscape of speculatively built early Victorian town houses, built with a prospect over the town’s arboretum. All 8 of the houses in Victoria Terrace are grade II listed and comprise classically informed doubled fronted villas in handed pairs.

The listing description for No. 7 and 8 states:

‘Mirrored pair of houses. Early 1850s. Built by Henry Farrington. Brick with painted stone and stucco dressings and hipped slate roof with overhanging bracketed eaves. Two storeys. Chamfered quoins on ground floor. Each house is of three bays, with an extra bay between houses which has a tunnel entrance on the ground floor with elliptical brick arch. On the ground floor are timber canted bay windows. The first floor windows have architraves, sill bands and cornices on console brackets. No 7 has 8-pane sashes. The windows of No 8 have lost their glazing bars. The doors, in the middle bay of each house, have surrounds with round heads under Ionic porches with pilaster responds. The capitals of

the porch to No 7 have lost their details. Chimneys between houses (one on each side of tunnel) and on end walls. Originally known as Hatherton Lake Villas. Included as part of a planned development'.

The eight houses in the street (known collectively as Victoria Terrace) form a private cul-du-sac on elevated land above the Arboretum and form part of the Arboretum Conservation Area. The Arboretum itself is also a grade II registered park and garden (but this does not include the housing).

During 2014/15 a large scale engineering operation was undertaken to restore the original alignment of the arboretum, along its boundary with 8 Victoria Terrace, as a result of unlawful remodelling works, extending 8 Victoria Terrace's curtilage out into the Arboretum. The works were carried out in accordance with application ref: 14/0107/FL and have now been fully implemented.

Number 8 Victoria Terrace differs from the other houses in the terrace as its garden is principally on the side (east) making it highly visible from the Arboretum and very prominent from the area around the new visitors centre.

12.4 **Evidence base**

During 2013 and 2014 the Council's Conservation Officer visited 8 Victoria Terrace on a number of occasions in connection with various proposals to develop the property and its land. This includes (1) extensions and alterations to the building itself, (2) new boundary enclosure, and (3) new structures within the garden. Some of these discussions related to the works to restore the land and embankment within the Arboretum.

Section 171b(1) notes that no enforcement action may be taken for a breach of planning control after the end of the period of four years beginning with the date on which the operations were substantially completed'. It should be noted that the four year period applies only to those works which are a breach of planning control as those which constitute a breach of listed building control are not time limited. Whilst photographic images taken by Council Officers in 2007 record the site prior to the excavation works being implemented in the garden, the development has not been substantially completed and indeed during a site visit to the Arboretum on 13 March 2015 it was evident that development to further excavate the hole had recently been undertaken, further confirming that the works are not completed and that enforcement action can be taken at present. Moreover, the pergola was located over the excavations in 2014 and has only recently been relocated to its current position.

Unauthorised development comprises:

1) Without Listed Building Consent:

- Alterations to the front portico (porch) canopy to level the parapet, cornice, frieze and architrave into one single plane whilst also raising the parapet;
- The use of decorative scalloped lead flashing overhanging the external facing of the parapet of the portico canopy;
- The fixing of a sign reading 'OH! ALLAH BLESS THIS HOUSE';
- The replacement of sash windows with modern timber sash windows:
 - Four first floor windows across the front elevation (from 1-over-1 sash windows to 2-over-2 sash windows);
 - The replacement of all three sash windows in both front canted bay windows with modern timber sash windows (the central windows have been changed from 1-over-1 sash windows to 2-over-2 sash windows);

- Two first floor windows on the east side elevation, on the main body of the house (from 1-over-1 sash windows to 2-over-2 sash windows);
 - Two first floor windows across the rear elevation (from 6-over-6 to 2-over-2 sash windows);
 - The replacement of the first floor (left most) sash window in the west facing elevation of the outrigger (towards No. 7) (from 3-over-3 sash window to a 2-over-2 sash window).
- Formation of a door from a window at first floor in the east facing elevation, to the left-hand end of the rear outrigger;
- The installation of a hand rail along the left-hand side of the flight of steps up to the main entrance.
- The installation of floodlighting:
 - At first floor level, either side of the window above the principle entrance on the south facing elevation;
 - At first floor level, to the left of the left-hand window on the east facing flank of the main body of the house;
- The installation of orange plastic rainwater inlet pipe on the east facing flank adjacent to the south-east corner of the building;
- The installation of hanging baskets and brackets:
 - Flanking either side of the main entrance portico on the south elevation;
 - Flanking either side of the garden room entrance on the east facing elevation;
- The installation of satellite dishes and associated external cabling on the east elevation;
 - On the main wing of the building at first floor level between the south-east corner of the building and the left-hand window;
 - On the main wing of the building at first floor level towards the north-east corner of the building above the single-storey garden room entrance;
 - On the outrigger at first floor close to the roof of the right hand canted bay window;
- The installation of extraction flue outlets:
 - On the rear elevation of the main wing of the house at first floor level, close to the north-east corner;
 - On the east facing flank of the outrigger at first floor level, to the right of the right-hand canted bay window;
- The installation of cabling and electrical boxes to the external facing of the masonry:
 - On the front elevation at first floor level, running vertically adjacent to the south east corner;
 - On the east flank elevation at first floor level, running vertically adjacent to the south east corner;
 - On the east facing elevation of the outrigger, running vertically adjacent to the rear corner between first and second floor;
 - On the east facing elevation of the outrigger, running vertically adjacent to the rear corner at ground floor;
 - To the left of the central down pipe between the two canted bays on the east facing flank of the outrigger;
- The rendering to the masonry on the rear elevation of the single-storey outrigger to the end of the two-storey outrigger;
- The painting of the stone window surrounds 'olive green':
 - To the landing window cill on the rear elevation of the main wing;
 - To the first floor window cills of both east facing canted windows in the outrigger;
 - To the ground floor window cills and mullions of the east flank of the outrigger;

- To the north facing window cill of the single-storey outrigger to the north/rear of the two-storey outrigger;
 - To the window cills of all windows in the west facing elevation of the outrigger;
 - To the window lintels and cills of all windows on the rear elevation of the main body of the building (to the west of the outrigger (adjacent to No. 7 Victoria Terrace));
- The positioning of a bath on the roof of the single-storey extension to the rear of the main body of the house;
- The insertion of ventilation holes along the underside of soffits on all elevation of the main building and outrigger at first and second floor level;
- The use of a brick finish and soffits to the finish of the single-storey extension to the rear of the main body of the house.
- Signage to gate posts:
 - To the left gate post reading '*M&T HOUSE*';
 - To the right gate post reading '*PRIVATE DRIVEWAY – NO UNAUTHORISED ACCESS – DO NOT BLOCK DRIVEWAY AT ANY TIME*'.

Steps required to remedy the breaches:

- Reinstatement of the architectural elements of the front portico (porch) canopy to reform the profile of the parapet, cornice, frieze and architrave in plaster or stone and finish in white paint so as to match the design and finish of the portico canopy of No. 7 Victoria Terrace in size, design, profile and finish;
- The removal of the decorative scalloped lead flashing from the portico canopy and replacement with a simple lead flashing with an apron that over hangs the parapet profile in a straight line of no more than 20mm overhang;
- The removal of the sign reading '*OH! ALLAH BLESS THIS HOUSE*', *making good the holes and painting over with white paint*;
- The removal and replacement or the remodelling of the following windows:
 - Four first floor windows across the front elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
 - The two ground floor front facing canted bay windows to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those in the adjacent right hand canted bay window at No. 7 Victoria Terrace;
 - Two first floor windows on the east side elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
 - Two first floor windows across the rear elevation to form 6-over-6 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those at first floor on the rear elevation of No. 7 Victoria Terrace;
 - The first floor (left most) sash window in the west facing elevation of the outrigger (towards No. 7) to form a 3-over-3 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor to the rear elevation of No. 7 Victoria Terrace.
- Removal of the door at first floor in the east facing elevation, to the left-hand end of the rear outrigger, bricking up the lower section using matching bricks to

the wider section of wall, using a matching bond, instating a stone cill (to match the height, position, design and form of the other first floor windows on the flank elevation of the main body of the house) and the insertion of a 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;

- The removal of the hand rail along the left-hand side of the flight of steps up to the main entrance and the making good of any holes.
- The removal of floodlighting:
 - From first floor level, either side of the window above the principle entrance on the south facing elevation, making good the holes with matching mortar;
 - From first floor level, to the left of the left-hand window on the east facing flank of the main body of the house, making good the holes with matching mortar;
- The removal of orange plastic rainwater inlet pipe on the east facing flank adjacent to the south-east corner of the building and its replacement with black cast iron pipe of the same dimension.
- The removal of hanging baskets and brackets:
 - From either side of the main entrance portico on the south elevation, making good the holes with matching mortar;
 - From either side of the garden room entrance on the east facing elevation, making good the holes with matching mortar;
- The removal of satellite dishes and associated external cabling on the east elevation;
 - From the main wing of the building at first floor level between the south-east corner of the building and the left-hand window, making good the holes with matching mortar;
 - From the main wing of the building at first floor level towards the north-east corner of the building above the single-storey garden room entrance, making good the holes with matching mortar;
 - From the outrigger at first floor close to the roof of the right hand canted bay window, making good the holes with matching mortar;
- The removal of extraction flue outlets:
 - From the rear elevation of the main wing of the house at first floor level, close to the north-east corner, making good the holes with matching mortar;
 - From the east facing flank of the outrigger at first floor level, to the right of the right-hand canted bay window, making good the holes with matching mortar;
- The removal of cabling and electrical boxes to the external facing of the masonry:
 - From the front elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;
 - From the east flank elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;
 - From the east facing elevation of the outrigger, running vertically adjacent to the rear corner between first and second floor, making good the holes with matching mortar;
 - From the east facing elevation of the outrigger, running vertically adjacent to the rear corner at ground floor, making good the holes with matching mortar;
 - From the left of the central down pipe between the two canted bays on the east facing flank of the outrigger, making good the holes with matching mortar;

- The removal of the render from the masonry on the rear elevation of the single-storey outrigger to the end of the two-storey outrigger, the making good of the brickwork and re-pointing using a lime mortar consisting of NHL3.5;
- The painting of the stone window surrounds white:
 - To the landing window cill on the rear elevation of the main wing;
 - To the first floor window cills of both east facing canted windows in the outrigger;
 - To the ground floor window cills and mullions of the east flank of the outrigger;
 - To the north facing window cill of the single-storey outrigger to the north/rear of the two-storey outrigger;
 - To the window cills of all windows in the west facing elevation of the outrigger;
 - To the window lintels and cills of all windows on the rear elevation of the main body of the building (to the west of the outrigger (adjacent to No. 7 Victoria Terrace));
- The removal of the bath from the roof of the single-storey extension to the rear of the main body of the house;
- The removal of ventilation holes along the underside of soffits on all elevation of the main building and outrigger at first and second floor level and the use of breathable felt under the slates for ventilation;
- Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C;
- Removal of the signage:
 - From the left gate post reading '*M&T HOUSE*', making good the holes with matching mortar;
 - From the right gate post reading '*PRIVATE DRIVEWAY – NO UNAUTHORISED ACCESS – DO NOT BLOCK DRIVEWAY AT ANY TIME*', making good the holes with matching mortar.

Having regard for the offences and the steps which would be required to remedy those breaches, the following enforcement action is sought:

- a) Reinstatement of the architectural elements of the front portico (porch) canopy to reform the profile of the parapet, cornice, frieze and architrave in plaster or stone and finish in white paint so as to match the design and finish of the portico canopy of No. 7 Victoria Terrace in size, design, profile and finish;
- b) The removal of the decorative scalloped lead flashing from the portico canopy and replacement with a simple lead flashing with an apron that over hangs the parapet profile in a straight line of no more than 20mm overhang;
- c) The removal of the sign reading '*OH! ALLAH BLESS THIS HOUSE*', *making good the holes and painting over with white paint*;
- d) The removal and replacement or the remodelling of the following windows:
 - a. Four first floor windows across the front elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
 - b. The two ground floor front facing canted bay windows to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those in the adjacent right hand canted bay window at No. 7 Victoria Terrace;
 - c. Two first floor windows on the east side elevation to form 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing

- bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
- d. Two first floor windows across the rear elevation to form 6-over-6 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal to those at first floor on the rear elevation of No. 7 Victoria Terrace;
 - e. The first floor (left most) sash window in the west facing elevation of the outrigger (towards No. 7) to form a 3-over-3 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor to the rear elevation of No. 7 Victoria Terrace.
- e) Removal of the door at first floor in the east facing elevation, to the left-hand end of the rear outrigger, bricking up the lower section using matching bricks to the wider section of wall, using a matching bond, instating a stone cill (to match the height, position, design and form of the other first floor windows on the flank elevation of the main body of the house) and the insertion of a 1-over-1 hard wood sash windows identical in frame design, joinery dimension, colour finish and positioning within the reveal (but without the 6-over-6 glazing bars) to those at first floor on the front elevation of No. 7 Victoria Terrace;
- f) The removal of the hand rail along the left-hand side of the flight of steps up to the main entrance and the making good of any holes.
- g) The removal of floodlighting:
- a. From first floor level, either side of the window above the principle entrance on the south facing elevation, making good the holes with matching mortar;
 - b. From first floor level, to the left of the left-hand window on the east facing flank of the main body of the house, making good the holes with matching mortar;
- h) The removal of orange plastic rainwater inlet pipe on the east facing flank adjacent to the south-east corner of the building and its replacement with black cast iron pipe of the same dimension.
- i) The removal of hanging baskets and brackets:
- a. From either side of the main entrance portico on the south elevation, making good the holes with matching mortar;
 - b. From either side of the garden room entrance on the east facing elevation, making good the holes with matching mortar;
- j) The removal of satellite dishes and associated external cabling on the east elevation;
- a. From the main wing of the building at first floor level between the south-east corner of the building and the left-hand window, making good the holes with matching mortar;
 - b. From the main wing of the building at first floor level towards the north-east corner of the building above the single-storey garden room entrance, making good the holes with matching mortar;
 - c. From the outrigger at first floor close to the roof of the right hand canted bay window, making good the holes with matching mortar;
- k) The removal of extraction flue outlets:
- a. From the rear elevation of the main wing of the house at first floor level, close to the north-east corner, making good the holes with matching mortar;
 - b. From the east facing flank of the outrigger at first floor level, to the right of the right-hand canted bay window, making good the holes with matching mortar;
- l) The removal of cabling and electrical boxes to the external facing of the masonry:
- a. From the front elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;

- b. From the east flank elevation at first floor level, running vertically adjacent to the south east corner, making good the holes with matching mortar;
- c. From the east facing elevation of the outrigger, running vertically adjacent to the rear corner between first and second floor, making good the holes with matching mortar;
- d. From the east facing elevation of the outrigger, running vertically adjacent to the rear corner at ground floor, making good the holes with matching mortar;
- e. From the left of the central down pipe between the two canted bays on the east facing flank of the outrigger, making good the holes with matching mortar;
- m) The removal of the render from the masonry on the rear elevation of the single-storey outrigger to the end of the two-storey outrigger, the making good of the brickwork and re-pointing using a lime mortar consisting of NHL3.5;
- n) The painting of the stone window surrounds white:
 - a. To the landing window cill on the rear elevation of the main wing;
 - b. To the first floor window cills of both east facing canted windows in the outrigger;
 - c. To the ground floor window cills and mullions of the east flank of the outrigger;
 - d. To the north facing window cill of the single-storey outrigger to the north/rear of the two-storey outrigger;
 - e. To the window cills of all windows in the west facing elevation of the outrigger;
 - f. To the window lintels and cills of all windows on the rear elevation of the main body of the building (to the west of the outrigger (adjacent to No. 7 Victoria Terrace);
- o) The removal of the bath from the roof of the single-storey extension to the rear of the main body of the house;
- p) The removal of ventilation holes along the underside of soffits on all elevation of the main building and outrigger at first and second floor level and the use of breathable felt under the slates for ventilation;
- q) Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C;
- r) Removal of the signage:
 - a. From the left gate post reading 'M&T HOUSE', making good the holes with matching mortar;
 - b. From the right gate post reading 'PRIVATE DRIVEWAY – NO UNAUTHORISED ACCESS – DO NOT BLOCK DRIVEWAY AT ANY TIME', making good the holes with matching mortar.

REASON: The works are necessary to restore the damage caused to the fabric and immediate setting of a grade II listed building and views towards this grade II listed building from across the Arboretum Conservation Area and grade II registered park and garden.

2) Without planning permission:

- The erection of a pergola in the grounds of the listed building (2.4m to eaves, 3.3m to ridge, 3.7m wide and 4.1m deep);
- Modification of existing unauthorised excavation of earth and formation of retaining walls forming:
 - A proposed pump room measuring 3.8m wide, 7m long and 2.3m deep;
 - A proposed fish pond measuring 3m wide, 4m long and 1.4m deep;

- The covering of most of the land to the front (south) and east-side of the main body of the house with hard-standing comprising York paving, natural stone sets, decorative brick blockwork forming circle motifs and carriage crossing (extending onto land beyond the curtilage). This covers an area of approximately 350sqm;
- The use of a brick finish and soffits to the finish of the single-storey extension to the rear of the main body of the house.

Steps required to remedy the breaches:

- The removal of the pergola from the grounds of the listed building;
- The dismantling and removal from site of the retaining walls and infilling of excavation works forming:
 - A proposed pump room measuring 3.8m wide, 7m long and 2.3m deep;
 - A proposed fish pond measuring 3m wide, 4m long and 1.4m deep;
- The removal of the hard-standing to the front (south) and east-side of the main body of the house and replacement with soft landscaping;
- Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C.

Having regard for the unauthorised development and the steps which would be required to remedy those breaches, the following enforcement action is sought:

- a) The removal of the pergola from the grounds of the listed building;
- b) The dismantling and removal from site of the retaining walls and infilling of excavation works forming:
 - a. A proposed pump room measuring 3.8m wide, 7m long and 2.3m deep;
 - b. A proposed fish pond measuring 3m wide, 4m long and 1.4m deep;
- c) The removal of the hard-standing to the front (south) and east-side of the main body of the house and replacement with soft landscaping;
- d) Alterations to the roof and elevations of the single-storey extension to the rear of the main body of the house so as to reflect the approval granted under applications BC64373P/C and BC64395B/C.

REASON: The works are necessary to restore the damage caused to the fabric and immediate setting of a grade II listed building and views towards this grade II listed building from across the Arboretum Conservation Area and grade II registered park and garden.

No planning permission or listed building consent will be required for the remediation works contained within the notice.

It is proposed to make clear to the owner of No. 8 Victoria Terrace in covering correspondence that whilst Listed Building Consent for the installation of a new sign would be required, if an application were to be made for a sign having the same wording but made of brass using a rectangular template fixed centrally to the freeze of the restored portico canopy it is unlikely that this would offend or harm the architectural and historic value and character of the listed building and thus Listed Building Consent may be granted.

12.7 **Conclusion**

The undertaking of these works to the front elevation of a listed building and the carrying out of substantial engineering works and the erection of a pergola within its garden has caused damage to the immediate setting of a grade II listed building and

views towards this grade II listed building from across the Arboretum Conservation Area and grade II registered park and garden.

It is considered necessary to restore the building and its setting so that no unauthorised development or offences affect the appearance of the building from the wider aspect of Victoria Terrace (of which all other buildings are similar and Grade II Listed) and views from the Arboretum.