

The Planning Inspectorate

QUESTIONNAIRE (s174) ENFORCEMENT NOTICE (Online Version)

You must ensure that a copy of the completed questionnaire, together with any enclosures, is sent to the appellant/agent. Any documents which you have indicated as 'To follow' should also be sent to the case officer by the date given in the start letter.

If notification or consultation under an Act, Order or Departmental Circular would have been necessary before granting permission and has not yet taken place, please inform the appropriate bodies of the appeal now and ask for any comments to be sent direct to us within 6 weeks of the 'starting date'.

Appeal Reference	APP/C3430/C/24/3349508
Appeal By	MR LUKE LEE
Site Address	Squirrels Rest, Poplar Lane Hatherton Cannock WS11 1RS

PART 1

1.a. Do you agree to the written representation procedure? Yes No

*Note: If the written procedure is agreed, the Inspector will visit the site **unaccompanied** by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts.*

2.a. If the written procedure is agreed, can the relevant part of the appeal site be seen from a road or other public land? Yes No

2.b. Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

To fully assess the appeal site and check the use of the wooden chalet and surrounding land subject of the Enforcement notice

2.c. Are there any known health and safety issues that would affect the conduct of the site inspection? Yes No

Please describe:

2.d. Would the Inspector have to go onto any privately owned adjoining land as well as the appeal site itself? Yes No

PART 2

3. Are there any related appeals currently before the Secretary of State, e.g. under s.78, 174 or 195 of the Town and Country Planning Act 1990, s20 or 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or orders under s102 of the Town and Country Planning Act 1990? If yes please provide reference number(s) Yes No

4.a. Has the local planning authority received the correct fee payable for the deemed planning application/ground (a) to be considered? Yes No

5.a. Is the appeal site within a conservation area? Yes No

5.b. Is the appeal site adjacent to a conservation area? Yes No

PART 3

6.a. Does the notice relate to building, engineering, mining or other operations? Yes No

If YES, please state the area of the site shown in the notice plan, in hectares.

2 hectare(s)

6.b. Is the area of the alleged breach different from the above? Yes No

6.c. Does the alleged breach create any floor space? Yes No

If YES, please state the amount of gross floor space created, in square metres.

25 sq metre(s)

Does the enforcement notice relate to a change of use of land to use for:

7.a. the disposal of refuse or waste materials? Yes No

7.b. the deposit of materials remaining after mineral extraction? Yes No

7.c. the storage of minerals in the open? Yes No

8. If the enforcement notice relates to the erection of a building or buildings, is it accepted that their use is for purposes of agriculture on land used for agricultural purposes (not necessarily an agricultural unit as defined in the Agriculture Act (1947))? Yes No

9. Does the enforcement notice relate to the erection/change of use of a building which is a single private dwellinghouse, as defined in Regulation 2(1) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012? Yes No

PART 4

10. Has the local planning authority made a Local Development Order under sections 61A to 61C of the Town and Country Planning Act 1990 (as inserted by section 40 of the Planning and Compulsory Purchase Act 2004) in relation to the application site? Yes No

11. Has any planning permission been granted previously in respect of the development? Yes No

12. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

13. Has a planning contravention notice been served? Yes No

14.a. the appeal site is within 67 METRES OF A TRUNK ROAD? Yes No

14.b. the appeal site is CROWN LAND (as defined in s293 of the Act)? Yes No

14.c. a STOP NOTICE has been served in addition to the enforcement notice? Yes No

14.d. the appeal site is in or adjacent to or likely to affect a SSSI? Yes No

14.e. any protected species are likely to be affected by the alleged development? Yes No

If YES, please send the comments of Natural England or attach details, including relevant extracts of any protected species standing advice that has been considered.

see 'Questionnaire Documents' section

14.f. the appeal site is in a Green Belt or AONB? If YES, please state which one (name).	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
West Midlands Green Belt				
14.g. any part of the site is subject to a Tree Preservation Order?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
14.h. the appeal site is within 400m of an area of underground or surface mineral interest?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
14.i. the appeal site is within 250m of a waste landfill site?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
14.j. does the development affect the setting of a listed building or ancient monument?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
14.k. has importation of waste materials been involved in the development?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
14.l. does the appeal involve persons claiming gypsy/traveller status, whether or not this is accepted by the planning authority?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

PART 5

15. Please provide a plan of any public rights of way affected by the site. <input checked="" type="checkbox"/> see ' Questionnaire Documents ' section				
16.a. Is the appeal site subject to an ARTICLE 4 Direction?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
17. Have any development rights been restricted by means of a planning condition?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
18. Does the development relate to operational development for a disabled person, as defined by s29 of the National Assistance Act 1948?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
19. Will any consultation be carried out on the possibility of planning permission being granted if the appeal is confirmed as valid?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

Environmental Impact Assessment - Schedule 1

20.a. Is the alleged development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Environmental Impact Assessment - Schedule 2

20.b.i. Is the development Schedule 2 development as described in Column 1, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Environmental Impact Assessment - Environmental Statement (ES)

20.e. Has the appellant supplied an environmental statement?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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PART 6

21.a. a copy of the letter with which you notified people about the appeal. <input checked="" type="checkbox"/> see ' Questionnaire Documents ' section				<input checked="" type="checkbox"/>
21.b. a list of the people you notified and the deadline you gave for their comments to be sent to us.				<input checked="" type="checkbox"/>

see 'Questionnaire Documents' section

the deadline you gave for their comments to be sent to us.

31/10/2024

21.c. the planning officer's report to committee or delegated report and any other relevant document/minutes.

see 'Questionnaire Documents' section

21.d. where ground (a) (s174) has been pleaded and any fee required has been paid, a comprehensive list of conditions which you consider should be imposed if planning permission is granted. You need not attach this now, but it should reach us within 6 weeks of the starting date. The list must be submitted separately from your appeal statement.

Policies/Planning Guidance

22.a. extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan). You must include the front page, the title and date of approval/adoption, and the status of the plan. Copies of the policies should include the relevant supporting text.

List of policies

Core policies 1,2,4, EQ 4,11 and GB1

see 'Questionnaire Documents' section

22.b. extracts of any relevant policies which have been 'saved' by way of a Direction.

22.c. extracts from any supplementary planning guidance, that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted, and if so when.

22.d. extracts from any supplementary planning document that you consider necessary, together with the date of its adoption. In the case of emerging documents, please state what stage they have reached.

22.e. if any Development Plan Document (DPD) or Neighbourhood Plan relevant to this appeal has been examined and found sound/met the basic conditions and passed a referendum, the date the DPD or Neighbourhood Plan is likely to be adopted and, if you consider this date will be before the Inspector's decision on this appeal is issued, an explanation of the Council's policy position in respect of this appeal upon its adoption. You should also include an explanation of the status of existing policies and plans, as they relate to this appeal, upon adoption and which (if any) will be superseded;

22.f. if any DPD or Neighbourhood Plan relevant to this appeal has been submitted for examination, or in the case of a Neighbourhood Plan has been examined and is awaiting a referendum, an explanation of any substantive changes in the progress of the emerging plan, and their relevance to this appeal if it is considered that the plan will not be adopted before the Inspector's decision on this appeal is issued;

22.g. your Authority's CIL charging schedule is being/has been examined;

22.h. your Authority's CIL charging schedule has been/is likely to be adopted.

22.i. any other relevant information or correspondence you consider we should know about.

see 'Questionnaire Documents' section

Other relevant information

The Council requests that the appeal procedure is dealt with by a written representations as the facts of the case are clear and do not require face to face discussion.

Note: There is nothing to attach

PART 7

23. A true copy of the Enforcement Notice

see 'Questionnaire Documents' section

24. The Enforcement Notice Plan (if applicable)

see 'Questionnaire Documents' section

25. A list of those served with the Notice

see 'Questionnaire Documents' section

26. Do you wish to attach your statement of case?

Yes

No



LPA Details

I certify that a copy of this appeal questionnaire and any enclosures will be sent to the appellant or agent today.

LPA's reference

20/00435/UNCOU

Completed by

Catherine Gutteridge

On behalf of

South Staffordshire District Council

Please provide the details of the officer we can contact for this appeal, if different from the Planning Inspectorate's usual contact for this type of appeal.

Name

Salindra Shakespeare

Phone no (including dialling code)

01902696274

Email

Appeals@sstaffs.gov.uk

Please advise the case officer of any changes in circumstances occurring after the return of the questionnaire.

QUESTIONNAIRE DOCUMENTS

Appeal Reference APP/C3430/C/24/3349508

Appeal By MR LUKE LEE

Site Address
Squirrels Rest, Poplar Lane
Hatherton
Cannock
WS11 1RS

The documents listed below were uploaded with this form:

Relates to Section: PART 4
Document Description: 14.e. Comments of natural England or attach details, including relevant extracts of any protected species standing advice that has been considered.
File name: 8 Standing Advice for GCN.pdf

Relates to Section: PART 5
Document Description: 15. A plan of any public rights of way affected by the site.
File name: 9 Rights of way plan.pdf

Relates to Section: PART 6
Document Description: 21.a. A copy of the letter with which you notified people about the appeal.
File name: 7 Appeal notice.pdf

Relates to Section: PART 6
Document Description: 21.b. A list of the people you notified and the deadline you gave for their comments to be sent to us.
File name: 6 LOIP - Hatherton.pdf

Relates to Section: PART 6
Document Description: 21.c. the planning officer's report to committee or delegated report and any other relevant document/minutes.
File name: 2 Officer report.pdf

Relates to Section: PART 6
Document Description: 22.a. Extracts from any statutory development plan policy including the front page, title and date of approval/adoption and status.
File name: 4 Core strategy front page.pdf
File name: 5 Policies.pdf

Relates to Section: PART 7
Document Description: 23. A true copy of the Enforcement Notice.
File name: 3 Enforcement Notice.pdf

Relates to Section: PART 7
Document Description: 24. The Enforcement Notice Plan.
File name: Enforcement Notice plan.pdf

Relates to Section: PART 7
Document Description: 25. A list of those served with the Notice.
File name: List those served notice.pdf

The documents listed below are to follow by post:

Relates to Section: PART 6
Document Description: 22.i. Any other relevant information or correspondence you consider we should know about.

Completed by Not Set

Date 20/09/2024 16:40:48

LPA South Staffordshire District Council



Authorisation for Enforcement Action

THE AUTHORITY TO AUTHORISE THE ACTIONS PROPOSED IS DELEGATED TO THE CORPORATE DIRECTOR INFRASTRUCTURE AND BUSINESS GROWTH, BY VIRTUE OF PART 3 OF THE CONSTITUTION.

ENFORCEMENT REFERENCE: 20/00435/UNCOU

ADDRESS: Land at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS

BREACH OF PLANNING CONTROL:

- i) Without planning permission, unauthorised development consisting of the erection of a wooden chalet and associated patio area, located on the land coloured green on the Plan.
 - ii) Without planning permission, the material change of use of the Land, to a mixed use as agricultural and residential and for the following non-agricultural uses:
 - a) Use as a paddock for the keeping of ponies/horses on Field 1 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,
 - b) Use as a sensory garden/playground on Field 2 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,
 - c) Use as a paddock for the keeping of goats on Field 3 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling, including the erection of fencing outlined in pink to facilitate the material change of use of the Land.
-

POLICY CONSIDERATIONS:

National Planning Policy Framework

- 12 – Achieving well-designed and beautiful places
- 13 – Protecting Green Belt Land

Adopted Core Strategy

Core Policy 1: The Spatial Strategy for South Staffordshire

GB1: Development in the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape

RELEVANT PLANNING HISTORY:

1991, Stables and feed stores, Approved (91/00028)

1994, Feed store, Approved (94/00530)

2000, Exercise area for horses, post and rail fencing, approved (00/00656/COU)

2004, Mobile home ancillary to existing riding stables, Withdrawn (04/00867)

2005, Retain sited caravan to provide proper washing toilet and changing facilities, Refused (05/00071) appeal dismissed (05/00064/REF)

2014, Conversion and change of use of existing stables to form one dwelling, refused by committee (14/00074/COU) appeal allowed (14/00023/REF)

2016, variation of conditions related to conversion and change of use of existing stables to form one dwelling, Refused (16/00972/VAR), appeal dismissed (17/00013/REF)

2018, Extension of converted stables. Refused (18/00350/FUL)

2020, Proposed change of use of land to a mixed use for the keeping of horses and as a residential gypsy caravan site for the stationing of 2 mobile homes and 1 touring caravan, together with laying of hardstanding, and erection of an amenity building, stables and a hay barn. Refused (20/00801/COU), appeal dismissed (21/00023/REF)

CASE SUMMARY:

On 14th December 2020 the Council received a complaint in relation to the erection of a wooden chalet on the Land in the approximate position shaded green on the Plan.

The investigation into the breach in planning control was held in abeyance pending an application for a material change of use of an adjacent ménage and Field 1 to a mixed use for the keeping of horses and as a residential gypsy caravan site for the stationing of 2 mobile homes and 1 touring caravan, together with laying of hardstanding, and erection of an amenity building, stables and a hay barn, (application reference 20/00801/COU). The appeal (“the Appeal”) was subsequently refused by way of decision letter dated 25th August 2023.

Following the dismissal of the Appeal the investigation was subsequently resurrected where it was found that as well as the unauthorised development consisting of the wooden chalet, (breach 1), the Land was also being used for the matters described at breach 2.

A Planning Contravention Notice was subsequently served on the landowner and returned dated 30th October 2023, in which the breaches in planning control were identified by the landowner to the Council.

A period of negotiation followed in which the landowner’s planning agent advised that he would submit a retrospective planning application, however despite repeated requests for this to be submitted, no application has been received.

The unauthorised development consisting of the erection of the wooden chalet took place less than four years ago and is not immune from enforcement action. The material change of use of the Land to a mixed use as agricultural and residential and for the non-agricultural uses detailed in the breach took place less than ten years ago and is not immune from enforcement action. Given the proximity of the goats to the children’s playground and lack of any evidence from the landowner that the goats are kept in connection

with any agricultural use of the Land, the position of the Council is that they are being kept for domestic purposes and as such, planning permission is required.

The Land is located within the Green Belt to the northern side of Poplars Lane, approximately 350m south-west of a built-up residential suburb of Cannock District. Poplar Lane is a rural, single vehicle width highway that leads to the A5 Four Crosses junction, approximately 0.5km to the south west.

Bridlepath No.4 runs alongside the western boundary between the Land and the neighbouring lawfully established gypsy and traveller site. Public Footpath No.2 is approximately 250 to the north of the site and the boundary of Cannock Chase AONB (along Sandy Lane), is approximately 400m north of the application site at its nearest point.

Permission was granted at appeal in 2014 for the residential conversion of a stable block which lies within the lawfully established residential curtilage to the south of the wooden chalet and to the west of the Land subject of this enforcement notice.

Paragraph 135 of the National Planning Performance Framework, (NPPF), states that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

Paragraph 142 of the NPPF states that the essential characteristics of Green Belt are their openness and their permanence.

Paragraph 143 c) of the NPPF states that one of the five purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. Paragraphs 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraph 155 states that certain forms or of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of the land within it, including at part e) material changes of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

Policy GB1 of the Core Strategy Development Plan states that the making of a material change of use of land will normally be permitted where the proposed use would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes and is consistent with the NPPF.

Policy EQ4 states that the intrinsic rural landscape and local distinctiveness of the South Staffordshire landscape should be maintained and that the siting, scale, and design of new development will need to take full account of the nature and distinctive qualities of the local landscape.

Policy EQ11 states that development proposals must seek to achieve creative and sustainable designs that take into account local character and distinctiveness, and reflect the principles set out with regards to A) use, B) movement and C) form. Part C e) states that proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4, by enhancing the positive attributes whilst mitigating the negative aspects.

The wooden chalet is located along the western boundary of the Land set against a boundary hedge of trees. As such, its effect on the openness of the Green Belt is limited however it results in development where previously there was none and represents a form of encroachment contrary to the relevant paragraphs of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

What was formerly open fields has now been fenced off with all three fields identified on the Plan being used in connection with the domestic residential use of the adjacent dwelling. Field 1 is used as a paddock for the keeping of ponies/horses, Field 2 for use as a sensory garden/playground with a large children's wooden climbing frame centred in the middle of it, and Field 3 for use as a paddock for the keeping of goats.

The use of three fields for the domestic purposes outlined represents a form of encroachment into the Green Belt with the addition of the large children's wooden climbing frame centred in the middle of Field 2 having a clear impact on the openness of the Green Belt and contrary to the relevant paragraphs of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

No very special circumstances have been advanced for the unauthorised development and as such, the development represents inappropriate development within the Green Belt.

The Council do not consider that that conditions could overcome the harm created by the harm to the Green Belt caused by the breach in planning control identified in this report and as such, planning permission should be refused.

EXPEDIENCY OF ENFORCEMENT ACTION:

Planning Enforcement action is a discretionary power which may be exercised where there has been a breach of planning control which affects public amenity or otherwise affects land or buildings meriting protection in the public interest. This case relates to inappropriate development within the Green Belt consisting of the erection of a wooden chalet and the use of three Fields in connection with the adjacent residential dwelling with clear identified harm to the Green Belt.

The landowner has refused to cease the use or remove the development and no planning application has been received. This leaves the Council with little alternative but to proceed with formal enforcement action to ensure the restoration and ongoing protection of the Green Built and in order to maintain public confidence in the planning system.

NOTICES TO BE SERVED UPON:

LUKE EATHEL LEE
Squirrels Rest,
Poplar Lane,
Cannock
WS11 1RS

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

Land at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS



TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

CASE OFFICER DECLARATION:

I hereby declare that I have adhered to the Council's Planning Enforcement Policy & Procedures, and that based on the evidence gathered during my investigation I recommend the service of the notice attached to this form, including, where relevant, the amendments made by the named Officers below.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during the course of my investigation and in the construction of the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

CASE OFFICER: Mark Bray
POSITION: Planning Enforcement Consultant
DATE: 22nd March 2024

Signed:



LINE MANAGER COMMENTS, INSERTIONS OR REVISIONS:**DECLARATION:**

I hereby declare that I have reviewed the case and support the Case Officer declaration above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

NAME: Catherine Gutteridge
POSITION: Planning Enforcement Team Manager
DATE: 14.06.24

Signed:



DEVELOPMENT MANAGEMENT COMMENTS, INSERTIONS OR REVISIONS:

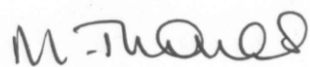
DECLARATION:

I hereby declare that I have reviewed the case and support the Officer declarations above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

NAME: Matthew Thomas
POSITION: Assistant Team Manager
DATE: 14/06/24

Signed: 

LEGAL SERVICES COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

I hereby declare that I have reviewed the case and support the Officer declarations above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

NAME: Pardip
Sharma
POSITION:
Solicitor
DATE: 05 07 24

Signed Pardip Sharma

AUTHORISING OFFICER COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

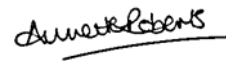
I hereby declare that I have reviewed the case and support the Officer declarations above.

Based on my review of the evidence gathered during the investigation, it is both expedient and in the public interest to serve the notice attached to this form, including, where relevant, my amendments detailed above, and those made by the other named Officers.

I have given consideration to [South Staffordshire Council's Planning Policies](#), the [National Planning Policy Framework](#), and to the Government's [Enforcement and post-permission matters](#) guidance during my review of the investigation and my amendments to the attached notice, ensuring that it is a proportionate and reasonable response to the breach of planning control.

Annette Roberts

Corporate Director Infrastructure and Business Growth



DATE: 5th July 2024

Signed:

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

Unauthorised Development & Change of Use

ISSUED BY: South Staffordshire District 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 to 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 THIS NOTICE RELATES

Land at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS ("the Land") outlined in red on the plan attached to this notice ("the Plan").

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

- i) Without planning permission, unauthorised development consisting of the erection of a wooden chalet and associated patio area, located on the land coloured green on the Plan.
- ii) Without planning permission, the material change of use of the Land, to a mixed use as agricultural and residential and for the following non-agricultural uses:
 - a) Use as a paddock for the keeping of ponies/horses on Field 1 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,
 - b) Use as a sensory garden/playground on Field 2 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,
 - c) Use as a paddock for the keeping of goats on Field 3 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling, including the erection of fencing outlined in pink to facilitate the material change of use of the Land.

4. REASONS FOR ISSUING THIS NOTICE

The unauthorised development consisting of the erection of the wooden chalet and associated patio area took place less than four years ago and is not immune from enforcement action. The material change of use of the Land to a mixed use as agricultural

and residential and for the non-agricultural uses detailed at paragraph 3 above took place less than ten years ago and is not immune from enforcement action.

The Land is located within the Green Belt to the northern side of Poplars Lane, approximately 350m south-west of a built-up residential suburb of Cannock District. Poplar Lane is a rural, single vehicle width highway that leads to the A5 Four Crosses junction, approximately 0.5km to the south west.

Bridlepath No.4 runs alongside the western boundary between the Land and the neighbouring lawfully established gypsy and traveller site. Public Footpath No.2 is approximately 250 to the north of the site and the boundary of Cannock Chase AONB (along Sandy Lane), is approximately 400m north of the application site at its nearest point.

Permission was granted at appeal in 2014 for the residential conversion of a stable block which lies within the lawfully established residential curtilage to the south of the wooden chalet and to the west of the Land subject of this enforcement notice.

The wooden chalet is located along the western boundary of the Land set against a boundary hedge of trees. As such, its effect on the openness of the Green Belt is limited however it results in development where previously there was none and represents a form of encroachment contrary to paragraphs 135, 142, 143 and 153 of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

What was formerly open fields has now been fenced off with all three fields identified on the Plan being used in connection with the domestic residential use of the adjacent dwelling. Field 1 is used as a paddock for the keeping of ponies/horses, Field 2 for use as a sensory garden/playground with a large children's wooden climbing frame centred in the middle of it, and Field 3 for use as a paddock for the keeping of goats.

The use of three fields for the domestic recreational purposes in connection with the adjacent dwelling identified in this Notice represents a form of encroachment into the Green Belt with the addition of the large children's wooden climbing frame centred in the middle of Field 2 having a clear impact on the openness of the Green Belt and contrary to paragraphs 135, 142, 143, 153 and 155 of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

No very special circumstances have been advanced for the unauthorised development and as such, the development represents inappropriate development within the Green Belt.

The Council do not consider that that conditions could overcome the harm created by the harm to the Green Belt caused by this breach in planning control and as such, planning permission should be refused.

4. WHAT YOU ARE REQUIRED TO DO

You Must

- i) Remove the wooden chalet and any materials used to form the base and the associated patio area and steps from the Land.

- ii) Restore the Land back to the condition it was in before the wooden chalet and associated patio area was erected upon it.
- iii) Cease the use of the Land for use as a paddock for the keeping of ponies/horses, for use as a sensory garden/playground and for use as a paddock for the keeping of goats.
- iv) Remove the large children's wooden climbing frame and all materials connected to it from the Land.
- v) Remove the fencing (shown in the approximate position marked pink on the Plan used to demarcate Fields 1 – 3) from the Land.
- vi) Restore the Land (outlined in blue marked Fields 1 – 3 on the Plan) back to the condition it was in before the unauthorised development took place.

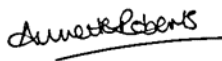
6. **TIME FOR COMPLIANCE**

Three months from the date the notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 8th August 2024 unless an appeal is made against it beforehand.

Dated: 8th July 2024



Signed:

Annette Roberts

Corporate Director Infrastructure & Business Growth, South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

Nominated Officer:

Mark Bray, Planning Enforcement Team, South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

Land at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to Land at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS.

This local planning authority, South Staffordshire Council, has issued an enforcement notice relating to the above land and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice are also being served on the parties listed on the Notice who, it is understood, also have an interest in the Land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 8th August 2024 and you must ensure that the required steps, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 8th August 2024.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds: -

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by Section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924.00. This amount is double the usual Planning Application fee. You should pay this fee to South Staffordshire Council (made payable to South Staffordshire Council). Joint appellants need only pay one set of fees. If you do not wish to proceed under Ground (a) then no fee is payable.

If you decide to appeal, when you submit your appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

A copy of the appeal form and a copy of the Enforcement Notice together with a cheque for £924.00 if appealing Ground a) made payable to South Staffordshire Council should be sent to the Council addressed to:-

Corporate Director Planning & Infrastructure
South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road,
Codsall,
WV8 1PX

If you do not appeal against this enforcement notice, it will take effect on the 8th August 2024 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods 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.

Planning Enforcement Contact Officer:

Mark Bray
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX
Tel: 01902 696900

E-mail: m.bray@sstaffs.gov.uk

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

LUKE EATHEL LEE
Squirrels Rest,
Poplar Lane,
Cannock
WS11 1RS

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 Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

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.

Relevant Extracts from the Town & Country Planning Act 1990

[171A. — Expressions used in connection with enforcement.

- (1) For the purposes of this Act—
 - (a) Carrying out development without the required planning permission;
 - or,
 - (b) Failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) The issue of an enforcement notice (defined in section 172); or
 - (b) The service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.
- (3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.]¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171A(1)-(3): England, Wales

[171B. — Time limits.

- (1) 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.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—

- (a) The service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
- (b) Taking further enforcement action in respect of any breach of planning control, if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.”] ¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171B: England, Wales

[171BA Time limits in cases involving concealment

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a “planning enforcement order”) in relation to that apparent breach of planning control.
- (2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—
 - (a) The apparent breach, or
 - (b) Any of the matters constituting the apparent breach, at any time in the enforcement year.
- (3) “The enforcement year” for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).
- (4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.
- (5) Subsection (2)—
 - (a) Applies whether or not the time limits under section 171B have expired, and
 - (b) Does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.] ¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BA(1)-(5)(b): England, Wales

[171BB Planning enforcement orders: procedure

- (1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.
- (2) For the purposes of subsection (1), a certificate—
 - (a) Signed on behalf of the local planning authority, and

- (b) Stating the date on which evidence, sufficient in the authority's opinion to justify the application came to the authority's knowledge, is conclusive evidence of that fact.
- (3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.
- (4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—
 - (a) On the owner and on the occupier of the land, and
 - (b) On any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—
 - (a) The applicant,
 - (b) Any person on whom a copy of the application was served under subsection (4), and
 - (c) Any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (6) In this section "planning enforcement order" means an order under section 171BA(1).¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BB(1)-(6): England, Wales

[171BC Making a planning enforcement order

- (1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—

Town and Country Planning Act 1990 Page 207

- (a) The court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and
- (b) The court considers it just to make the order having regard to all the circumstances.
- (2) A planning enforcement order must—
 - (a) Identify the apparent breach of planning control to which it relates, and
 - (b) State the date on which the court's decision to make the order was given.
- (3) In this section "planning enforcement order" means an order under section 171BA(1).¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BC(1)-(3): England, Wales

[Planning contravention notices] 1

[172. — Issue of enforcement notice.

- (1) 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.
- (2) A copy of an enforcement notice shall be served—

Town and Country Planning Act 1990 Page 213

- (a) On the owner and on the occupier of the land to which it relates; and
 - (b) On any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) Not more than twenty-eight days after its date of issue; and
 - (b) Not less than twenty-eight days before the date specified in it as the date on which it is to take effect.]¹

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 172: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 172(1)-(8): England, Wales

[172A Assurance as regards prosecution for person served with notice

- (1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—
 - (a) Explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,
 - (b) Giving the person one of the following assurances—
 - i. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
 - ii. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,
 - (c) Explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
 - (d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow

the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

- (2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

Town and Country Planning Act 1990 Page 214

- (3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.
- (5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.125 (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 172A(1)-(5): England, Wales

[173. — Contents and effect of notice.

- (1) An enforcement notice shall state—
 - (a) The matters which appear to the local planning authority to constitute the breach of planning control; and
 - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1) (a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
 - (a) Remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) Remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
 - (a) The alteration or removal of any buildings or works;
 - (b) The carrying out of any building or other operations;
 - (c) Any activity on the land not to be carried on except to the extent specified in the notice;

Or

- (d) The contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

Town and Country Planning Act 1990 Page 215

- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
 - (a) Must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) May differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) Must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—
 - (a) An enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - (b) All the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
 - (a) An enforcement notice requires the construction of a replacement building; and
 - (b) All the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.]¹

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 part.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 173: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Town and Country Planning Act 1990 Page 216

Extent

Pt VII s. 173(1)-(12)(b): England, Wales

[173A. — Variation and withdrawal of enforcement notices.

- (1) The local planning authority may—
 - (a) Withdraw an enforcement notice issued by them; or
 - (b) Waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.]¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Extent

Pt VII s. 173A(2)-(4): England, Wales

174. — Appeal against enforcement notice.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) [An appeal may be brought on any of the following grounds—
 - (a) That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) That those matters have not occurred;
 - (c) That those matters (if they occurred) do not constitute a breach of planning control;
 - (d) That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
 - (e) That copies of the enforcement notice were not served as required by section 172;

Town and Country Planning Act 1990 Page 217

- (f) That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by

those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

- (g) That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) The land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time—
 - i. After the making of a related application for planning permission, but
 - ii. Before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.]²

(3) An appeal under this section shall be made [...] ³ —

- (a) By giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
- (b) By sending such notice to him in a property addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date [; or]³
- (c) [By sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.]³¹

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

- (a) Specifying the grounds on which he is appealing against the enforcement notice; and
- (b) Giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section “relevant occupier” means a person who—

- (a) On the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [...] ⁴ ; and
- (b) Continues so to occupy the land when the appeal is brought.

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt 1 s.6(1) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

² Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(4) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Town and Country Planning Act 1990 Page 218

³ S.174(3)(c) inserted in relation to Wales by Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004/3156 art.3 (January 1, 2005)

⁴ Words omitted by Planning and Compensation Act 1991 c. 34 Sch.7 para.22 (January 2, 1992)

Commencement

Pt VII s. 174: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 174(1)-(6)(b): England, Wales

P Partially In Force

175. — Appeals: supplementary provisions.

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
 - (a) Require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) Specify the matters to be included in such a statement;
 - (c) Require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) Require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]¹

- (4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)]² be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

Town and Country Planning Act 1990 Page 219

(7) [...] ³

Notes

1 Added by Planning Act 2008 c. 29 Sch.10 para.5 (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

2 Words added by Planning and Compensation Act 1991 c. 34 Pt 1 s.6(2) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

3 Repealed by Planning (Consequential Provisions) Act 1990 c. 11 Sch.4 para.3 (January 2, 1992: repeal has effect on January 2, 1992 for purposes specified in SI 1991/2698 art.3 subject to transitional provisions specified in SI 1991/2698 art.4 and on April 6, 2009 in relation to England only, for purposes specified in SI 2009/849 art.2(2)-(3) subject to transitional provisions specified in SI 2009/849 art.3; not yet in force otherwise)

Commencement

Extent

Pt VII s. 175(1)-(7): England, Wales

P Partially In Force

176. — General provisions relating to determination of appeals.

- (1) [On an appeal under section 174 the Secretary of State may—
 - (a) Correct any defect, error or misdescription in the enforcement notice; or
 - (b) Vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]¹
- (3) The Secretary of State—
 - (a) May dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
 - (b) May allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or
 - (c) Of section 175(1) within the prescribed period.
- (4) If [section 175(3) would otherwise apply and] **2** the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] **3** or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Town and Country Planning Act 1990 Page 220

Notes

1 S.176(1)-(2A) substituted for s.176(1)-(2) by Planning and Compensation Act 1991 c. 34 Sch.7 para.23 (January 2, 1992)

2 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(a) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j)); not yet in force otherwise)

3 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(b) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j)); not yet in force otherwise)

Commencement

Pt VII s. 176: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 176(1)-(5): England, Wales

177. — Grant or modification of planning permission on appeals against enforcement notices.

- (1) On the determination of an appeal under section 174, the Secretary of State may—

- (a) [Grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]¹
- (b) Discharge any condition or limitation subject to which planning permission was granted;
- (c) [Determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 19.]²

[(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

- (a) Any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
- (b) References to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.]²

[(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).]³

- (2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- (3) [The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]⁴

Town and Country Planning Act 1990 Page 221

- (4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (5) [Where an appeal against an enforcement notice is brought under section 174 and—
 - (a) The land to which the enforcement notice relates is in Wales, or
 - (b) That land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a), the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.]⁵

[(5A) Where—

- (a) The statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
- (b) Any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
- (c) The Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]⁶

- (6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.
- (7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.
- (8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Notes

- 1 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(a) (January 2, 1992)
- 2 S.77(1)(c), (1A) and (1B) substituted for s.77(1)(c) by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(b) (July 27, 1992 subject to transitional provisions specified in SI 1992/1630 art.3)
- 3 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(5) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)
- 4 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(2) (January 2, 1992)
- 5 Words and s.177(5)(a)-(b) substituted for words by Localism Act 2011 c. 20 Pt 6 c.5 s.123(6) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)
- 6 Added by Planning and Compensation Act 1991 c. 34 Pt I s.6(3) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 177: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 177(1)-(8): England, Wales

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

1. THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk/) (<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> (<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.



South Staffordshire Council

Core Strategy

December 2012



Further information can be found at
www.sstaffs.gov.uk



A Local Plan for
South Staffordshire

Core Strategy Development Plan Document

Adopted 11th December 2012

South Staffordshire Council

Core Policy 1 – The Spatial Strategy for South Staffordshire

The rural regeneration of South Staffordshire will be delivered through the implementation of the following Spatial Strategy. The principal aim will be to meet local needs, whilst recognising the constraints that impact upon the District, and support and improve infrastructure and service delivery in the District.

Throughout the District, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy set out below and the Council will work with partners to deliver the infrastructure, facilities and services required to support this growth. An integral part of the Strategy will be to protect, maintain and enhance the natural and historic environment and the local distinctiveness of the District and retain and reinforce the current settlement pattern.

In relation to the District's existing communities and settlements, appropriate proposals which contribute to their improved sustainability, cohesion and community wellbeing, will be supported.

Development proposals will be expected to make efficient use of land and prioritise the use of Previously Developed Land (brownfield land) in sustainable locations, provided it is not of high environmental value, whilst safeguarding the character of existing residential areas.

Main Service Villages

Bilbrook, Brewood, Cheslyn Hay, Codsall, Great Wyrley, Kinver, Penkridge, Perton and Wombourne are defined as **Main Service Villages** and will be the main focus for housing growth, employment development and service provision. Village centres will be the focus for new shopping and small scale office development to maintain their vitality and viability.

Local Service Villages

Coven, Essington, Featherstone, Huntington, Pattingham, Swindon and Wheaton Aston are defined as **Local Service Villages** where limited development will be supported where it meets local needs, whilst recognising the constraints that impact upon the District. Employment development will be limited to that which meets local business and community needs and maintains the vitality and viability of these communities. Shopping and office development will be located in the village centres.

Small Service Villages

Bednall, Bobbington, Bishops Wood, Dunston, Shareshill, and Trysull are defined as **Small Service Villages** where very limited development may be acceptable for the provision of rural affordable housing where it clearly supports a local need and contributes to the sustainability of those local communities. Employment development will be limited to rural employment and diversification which meets local business and community needs.

Other Villages and Hamlets

The villages defined as **Other Villages and Hamlets** are not identified for growth, and development will only be permitted in exceptional circumstances for the provision of rural affordable housing to meet identified local needs. New development in these locations will therefore be limited to rural affordable housing schemes provided through rural exception sites and the conversion and re-use of redundant rural buildings to appropriate uses.

Outside the Service Villages

Outside the service villages, the objective of the Spatial Strategy is to protect the attractive rural character of the countryside where new development will be restricted to particular types of development to meet affordable housing needs, support tourism, provide for sport and recreation and support the local rural economy and rural diversification.

As part of the strategy for employment and economic development, support will continue to be given to the four existing freestanding strategic employment sites (i54, Hilton Cross, ROF Featherstone/Brinsford and Four Ashes).

The Green Belt and Open Countryside

The South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map, will be protected from inappropriate development and proposals will be considered in the light of other local planning policies and the policy restrictions relating to Green Belt in the NPPF, however the Council will consider favourably sustainable development which accords with this Spatial Strategy.

The general extent of the Green Belt and the area defined as Open Countryside will be protected and maintained for the Plan period but some land will need to be released from the Green Belt and Open Countryside in some locations at the Main and Local Service Villages to deliver the proposed development strategy and enable the sustainable growth of these villages. A partial review of Green Belt boundaries and a review of Major Developed Sites in the Green Belt will be carried out through the Site Allocations DPD.

Delivering the Strategy

The Spatial Strategy will be delivered through the Core Policies and Development Policies. In all cases development should not conflict with the local planning policies, particularly the environmental policies. Development should be designed to be sustainable, seek to enhance the environment, and should provide any necessary mitigating or compensatory measures to address harmful implications.

Explanation

- 6.4 South Staffordshire lies on the edge of the West Midlands Conurbation close to the Major Urban Areas of the Black Country and has its own distinctive character. A key aspect of South Staffordshire's local distinctiveness is based around its ethos and philosophy of being a 'community of communities'. The settlement pattern of South Staffordshire is that of a rural area with many villages of different sizes situated within 27 parishes. There is no single dominant settlement and many of our residents rely on the services provided within towns and cities outside the District to meet some of their 'higher order' needs including hospitals, certain types of retail needs, and certain types of leisure and employment opportunities. This is in part because they are not able to meet their needs locally. Similarly, many of the people who work in and use the facilities of the District, actually live outside it.
- 6.5 The Spatial Strategy for South Staffordshire is to spread development geographically around the District based on a Settlement Hierarchy. The principal aim of the Strategy is to meet local needs whilst recognising the constraints that impact upon the District, and support the retention of existing facilities and services in villages in a sustainable way and where possible improve them. The Settlement Hierarchy classifies villages as Main Service Villages, Local Service Villages and Small Service Villages and the very small villages in the District are classified as Other Villages and Hamlets. The Settlement Hierarchy is shown on the following map.

- 7.3 South Staffordshire is comprised of a variety of landscapes, with historic landscapes, extensive areas of forest, areas of heathland, commons, rivers and water courses. Some landscape character types have suffered losses or degradation, and the District's landscape is affected by change arising from development, mineral working and agriculture. There are a number of initiatives covering part of the District that aim to achieve enhancements to the existing landscape and create valuable new habitats that can play a part in increasing biodiversity value within the District and these include the Forest of Mercia.
- 7.4 There are currently 11 sites of Special Scientific Interest (SSSI) in the District including Motte Meadows, Kinver Edge and Highgate Common. Motte Meadows is also a National Nature Reserve and a Special Area of Conservation (SAC) designated under the Habitats Directive. There are also many other Sites of Biological Importance (SBI) across the District of various habitat types that require on-going protection and management including important areas of lowland heathland and ancient woodland. In addition, there are 5 Local Nature Reserves (LNR) in the District including Shoal Hill Common and Wom Brook Walk. The western edge of the Cannock Chase Area of Outstanding Natural Beauty (AONB) lies within the District.
- 7.5 South Staffordshire has a total of 19 conservation areas, most of them based upon historic village centres, which include canal conservation areas covering the Staffordshire and Worcestershire Canal, Shropshire Union Canal, and the Stourbridge Canal. There are over 850 listed buildings and structures in the District and a range of other buildings and structures of local importance. In addition, there are 23 Scheduled Ancient Monuments (SAMs).

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

The Council will support development or other initiatives where they protect, conserve and enhance the District's natural and heritage assets including ecological networks internationally, nationally and locally important designations. Particular support will be given to initiatives to improve the natural environment where it is poor and increase the overall biodiversity of the District including the development of green infrastructure links and to improve the historic environment where it is identified as at risk.

Development or initiatives will generally be supported which:

- a) will not have a detrimental impact upon the interests and significance of a natural or heritage asset;
- b) are not contrary to the control of development within internationally, nationally or locally designated areas including the Green Belt and Open Countryside, Cannock Chase Area of Outstanding Natural Beauty and Motte Meadows Special Area of Conservation, and contribute to the conservation and enhancement of the character of the landscape and local distinctiveness;

- c) are consistent with the sustainable management of the asset including the repair and reuse of historic buildings;
- d) protect and improve water and air quality;
- e) provide mitigation or compensatory measures to address any potential harmful implications and supporting enhancement measures.

Development proposals should be consistent with the NPPF, the Supplementary Planning Documents on the Historic Environment and Biodiversity and other local planning policies.

Development proposals should have regard to and support the actions and objectives of the Severn and Humber River Basin Management Plans (RBMPs) and also have regard to the River Severn and River Trent Catchment Flood Management Plans (CFMPs).

Explanation

7.6 The Policy should be regarded as a positive policy that will support the protection and enhancement of South Staffordshire's natural and historic environment and reflects the importance attached to the assets in Strategic Objectives 3, 4 and 5. The natural and heritage assets in South Staffordshire can be identified as follows:

- The South Staffordshire portion of the West Midlands Green Belt
- The Open Countryside – its landscape character and appearance;
- The best and most versatile agricultural land;
- The character and setting of villages;
- Cannock Chase Area of Outstanding Natural Beauty (AONB);
- The Forest of Mercia;
- Statutory and local areas of wildlife and biological importance, including a National Nature Reserve, Sites of Scientific Interest;
- Motte Meadows Special Areas of Conservation (SAC);
- Protected species and their habitats;
- Regionally Important Geological/Geomorphological Sites;
- Ancient and semi-natural woodlands and veteran trees;
- Trees, woodlands and hedgerows;
- Areas of lowland heath;
- Rivers, watercourses and their floodplains, canals and ponds;
- Buildings, structures and areas of townscape, historic and architectural value and their setting – listed buildings, conservation areas, buildings of special local interest;
- Registered parks and gardens of historic interest including historic landscape areas;
- Sites or structures of archaeological importance – Scheduled Ancient Monuments, sites shown on the Sites and Monuments Record (SMR);
- Land of open space, recreational and amenity value;
- The public rights of way network.

- 7.7 Supporting, enhancing and protecting these assets will require the maintenance of strong partnerships with key partners, such as English Heritage, Natural England and the Environment Agency. The policies in the Core Strategy will contribute to the protection and management of the Cannock Chase AONB and contribute towards the aims and objectives of the Forest of Mercia. The Core Strategy will also make a major contribution towards achieving the objectives of the Staffordshire Biodiversity Action Plan (SBAP).
- 7.8 The approach to the management and protection of the Cannock Chase AONB will be covered in a Supplementary Planning Document (SPD). Further Supplementary Planning Documents will be prepared in relation to biodiversity and landscape character and linked to the relevant Core Strategy policies.

Key Evidence

Sustainable Community Strategy 2008 – 2020
South Staffordshire Council Plan –2012 - 2016
Habitats Regulation Assessment Review of the Core Strategy 2010
Staffordshire Biodiversity Action Plan 2001
Staffordshire Geodiversity Action Plan 2004
Staffordshire Ecological Records
Tree and Woodland Strategy 2010
Open Space Strategy 2009
Conservation Area Appraisals and Management Plans 2010
Village Design Guide SPD 2009
Buildings of Special Local Interest
Historic Environment Assessment 2011
Cannock Chase AONB Management Plan 2009 - 2014
Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of Local Authority Core Strategies 2010
Cannock Chase Visitor Impact Mitigation Strategy 2010
Assessment of Physical and Environmental Constraints 2009
Planning for Landscape Change – Staffordshire County Council SPD 1996-2011
Humber River Basin Management Plan 2009
Severn River Basin Management Plan 2009
River Severn Catchment Flood Management Plan 2009
River Trent Catchment Flood Management Plan 2010
Air Quality Updating and Screening Assessment 2009

Delivery and Monitoring

Through Development Policies EQ1, EQ2 ,EQ3 and EQ4

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Promoting High Quality Design

Introduction

- 7.53 Planning has a key role to play in achieving better-designed buildings and enhancing the environment of our villages. Good design has an important role in promoting sustainable development and protecting local character and distinctiveness. Good design in the creation of buildings, streets and spaces is an important component of enriching and improving the quality of life for the community.

Core Policy 4: Promoting High Quality Design

The Council will expect all development proposals to achieve a high quality of design of buildings and their landscape setting, in order to achieve the vision of a high quality environment for South Staffordshire. Support will be given to proposals that are consistent with the detailed design policy set out in Policy EQ11 and the guidance in the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions), and be informed by any other local design statements, and meet the following requirements:

- a) to provide an attractive, functional, accessible, safe, healthy and secure environment;
- b) to respect and enhance local character and distinctiveness of the natural and built environment including opportunities to improve the character and quality of the area and the way it functions;
- c) to incorporate measures to reduce the risk of flooding and prepare for the predicted effects of climate change;
- d) to make a positive contribution to the public realm including the incorporation of public art where appropriate;
- e) to adopt sustainable construction principles and use locally sourced and recycled materials wherever possible;
- f) to incorporate accessibility measures to meet the needs of users and facilitate access through sustainable forms of transport;
- g) to facilitate and encourage physical activity through outdoor sport, recreation (informal sport and play) walking and cycling;
- h) to secure improvements to public spaces and the provision of additional public spaces.

Development proposals will be assessed against the design criteria in the Village Design Guide Supplementary Planning Document (or subsequent revisions) and where appropriate should take into account the actions and recommendations contained in the Council's Conservation Area

Management Plans.

Development proposals should be consistent with other local planning policies.

Explanation

- 7.54 The Council has adopted a Village Design Guide Supplementary Planning Document with the aim of promoting the highest standards of design and construction in new development and to encourage buildings that are sustainable in construction and in use. The Council will also promote a high standard of landscape design to secure the best environment. Supported by the strong commitment to protect South Staffordshire's environmental assets, the Council will seek to ensure that the historic character of our villages is maintained and enhanced and that new development respects local character and distinctiveness. Development should be designed to create a safe, healthy and secure environment and make efficient use of resources. This approach reflects Strategic Objectives 5 and 14.
- 7.55 All new buildings and spaces must enhance and respect their surroundings and contribute towards local character and distinctiveness. Developments must be of the appropriate scale, design and materials for their location and conform to the design principles set out in above Policy. Public art may make a contribution in enhancing local character and distinctiveness and will be supported wherever appropriate.
- 7.56 Further detailed guidance on design and the requirements for new development is set out below in Policy EQ11 and reference should be made to the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions). All those proposing development will be advised to refer to the Department for Transport Manual for Streets, the Commission for Architecture and the Built Environment (CABE) Building for Life standards, the CABE document Physical Activity and the Built Environment, Sport England's Active Design and the web-based toolkit the 'West Midlands Sustainability Checklist (Advantage West Midlands). Those proposing new housing development are also advised to consult the Government document 'Code for Sustainable Homes' which provides a national standard for the construction of new homes.
- 7.57 Reference to 'Building for Life', the 'West Midlands Sustainability Checklist' and the Department for Transport Manual for Streets is to ensure that early in the development stage, careful attention is given to high quality and sustainable design principles. Reference to the Council's adopted Village Design Guide (or subsequent revisions) is also essential to ensure that careful attention is given to the requirements and guidance relevant to the distinctiveness of South Staffordshire.

Key Evidence

Sustainable Community Strategy 2008 - 2020

own survey work, will help to explain how the historic built environment has evolved and to identify buildings for the local list.

- 7.19 This comprehensive evidence base will emerge as a Supplementary Planning Document which encompasses the Historic Environment, identifying the main issues, and will also be used to inform and refresh the Village Design Guide.
- 7.20 In order to ensure that buildings at risk are saved or not degraded further, sometimes 'enabling development' is the only viable option. In this case paragraph (b) of this policy will be used in conjunction with guidance 'Enabling Development and the Conservation of Significant Places' issued by English Heritage in 2008 or subsequent guidance for enabling development.

Key Evidence

Sustainable Community Strategy 2008 - 2020
Conservation Area Appraisals and Management Plans 2010
Village Design Guide SPD 2009
Buildings of Special Local Interest (on going)
Historic Environment Character Assessment 2011
Assessment of Physical and Environmental Constraints 2009
West Midlands Farmsteads and Landscapes Project 2010

Delivery and Monitoring

Through the Development Management process in consultation with English Heritage, the County Council and other partners
Conservation and Design advice
Conservation Area Management Plans
Village Design Guide SPD (or subsequent revisions)
Historic Environment SPD
LSP Environmental Quality Delivery Plan

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape

The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved. For visual and ecological reasons, new and replacement planting should be of locally native species.

The Council will encourage and support the creation of new woodlands

and the management of existing woodlands particularly where they contribute to community forestry. Reference should be made to the Council's Tree and Woodland Strategy.

Throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long distance views.

The siting, scale, and design of new development will need to take full account of the nature and distinctive qualities of the local landscape. The use of techniques, such as landscape character analysis, to establish the local importance and the key features that should be protected and enhanced, will be supported.

Proposals should retain and strengthen the components of landscape character and local distinctiveness, with particular attention to the detailing of any proposal and its relationship with existing buildings, features and vegetation. Proposals within the Historic Landscape Areas (HLA) defined on the Policies Map should have special regard to the desirability of conserving and enhancing the historic landscape character, important landscape features and the setting of the HLA. The County Council's Landscape Character Assessment and Historic Landscape Characterisation will provide an informed framework for the decision making process.

Where possible, opportunities should be taken to add character and distinctiveness through the contribution of new landscape features, particularly to landscapes which have been degraded.

Development within the Cannock Chase Area of Outstanding Natural Beauty (AONB) and its setting as shown on the Policies Map will be subject to special scrutiny, in accordance with national policy and any additional guidance, in order to conserve and enhance the landscape, nature conservation and recreation interests of the area.

Proposals that contribute to the objectives of the Cannock Chase AONB Management Plan, the Forest of Mercia and other local initiatives that will contribute to enhancing landscape character will be supported.

Development proposals should be consistent with the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions), the Supplementary Planning Documents on Landscape Character and Biodiversity and other local planning policies.

Explanation

- 7.21 The landscape of South Staffordshire is rich and varied and includes part of the Cannock Chase Area of Outstanding Natural Beauty (AONB). It is an important objective of the Core Strategy to protect the character and appearance of the landscape and conserve this heritage for the future. The

NPPF states that the highest status of protection in relation to landscape and scenic beauty should be given to AONBs, and the extent of the Cannock Chase AONB, to which the national policy applies, is shown on the Policies Map.

- 7.22 There are 13 historic parklands and gardens in South Staffordshire, at Chillington, Enville, Four Ashes, Hatherton, Hilton, Himley/Wodehouse, Somerford, Stretton, Teddesley, Patshull, Prestwood, Wergs and Weston. The parklands at Chillington Hall, Enville, and Weston Park are of particularly high quality and have been identified as Grade ii* in the National Register of Historic Parks and Gardens by English Heritage. Patshull Hall and Himley Hall have been identified as Grade ii.
- 7.23 Historic parklands are valuable heritage assets and important to the distinctive rural character of South Staffordshire. They may contain avenues of trees, woodlands, individual veteran trees, areas of wood pasture, lakes and other water features, historic earthworks, moats, hedges, banks and green lanes which are all valuable habitats for wildlife. They also have potential for environmental education and tourism, as well as contributing to the attractiveness of the landscape.
- 7.24 The historic parklands and gardens in South Staffordshire, including those designated as Registered Parks and Gardens have been designated as 'Historic Landscape Areas' (HLAs) to protect them from inappropriate development and management. The principle of the HLAs was first established in the 1996 Local Plan and has been carried forward into the new local planning strategy to ensure that these areas are retained for the future.
- 7.25 The Council will encourage and support the conservation, enhancement and sustainable management of these heritage assets through the preparation of conservation management plans. The Council will work with landowners, English Heritage, the Staffordshire Gardens and Parks Trust, the Garden History Society, Natural England, Staffordshire Wildlife Trust and Staffordshire County Council on matters relating to historic parklands and gardens.
- 7.26 The Policy is consistent with the NPPF. Any development which will have an impact on the landscape should address the intrinsic character of its surroundings, and seek where possible to retain and strengthen the intrinsic character of areas. Landscape character analysis will be an important technique in many circumstances, utilising detailed work already undertaken by Staffordshire County Council in the Supplementary Planning Document 'Planning for Landscape Change' and work on historic landscape characterisation. More detailed guidance on landscape character will be included in a Supplementary Planning Document.

Key Evidence

Sustainable Community Strategy 2008 - 2020
Planning for Landscape Change – Staffordshire County Council SPG 1996-2011

Village Design Guide SPD 2009
Conservation Area Appraisals and Management Plans 2010
Open Space Strategy 2009

Delivery and Monitoring

Through Development Policy EQ13
LSP Environmental Quality Delivery Plan
Conservation Area Management Plans
Village Design Guide SPD (or subsequent revisions)

The monitoring arrangements are set out in the Monitoring Framework in Appendix 1.

Development Policies

7.58 The following Development Policies support Core Policy 4.

Policy EQ11: Wider Design Considerations

The design of all developments must be of the highest quality and the submission of design statements supporting and explaining the design components of proposals will be required. Proposals should be consistent with the design guidance set out in the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions) and be informed by any other local design statements.

Development proposals must seek to achieve creative and sustainable designs that take into account local character and distinctiveness, and reflect the principles set out below. The Council will encourage innovative design solutions.

A. Use

- a) mixed use developments will be encouraged where the uses are compatible with and complementary to each other and to other uses in the existing community, and where the development will help support a range of services and public transport (existing or new);
- b) proposals should where possible promote a density and mix of uses which create vitality and interest where appropriate to their setting;

B. Movement

- c) opportunities should be taken to create and preserve layouts giving a choice of easy and alternative interconnecting routes, including access to facilities and public transport and offer a safe, attractive environment for all users;

- d) provision should be made, especially within the proximity of homes, for safe and attractive walking and cycling conditions, including the provision of footpath links, cycleways and cycle parking facilities, and links to green infrastructure in accordance with Policies EV11 and HWB2;

C. Form

- e) proposals should respect local character and distinctiveness including that of the surrounding development and landscape, in accordance with Policy EQ4, by enhancing the positive attributes whilst mitigating the negative aspects;
- f) in terms of scale, volume, massing and materials, development should contribute positively to the streetscene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area;
- g) development should relate to and respect any historic context of the site, including plot patterns and street layout taking account of the guidance contained in Policy EQ3;
- h) development within or adjacent to a waterway corridor should take advantage of the waterside setting with an appropriate green corridor taking account of the aims and objectives of Policy HWB2;
- i) development should take every opportunity to create good design that respects and safeguards key views, visual amenity, roofscapes, landmarks, and focal points;
- j) development should take account of traditional design and forms of construction where appropriate, and avoid the use of inappropriate details;
- k) development should incorporate high quality building design and detailing, with particular attention given to appropriately designed elements;
- l) development must ensure a high standard of access for all and that safe and easy access is available to all potential users, regardless of ability, age or gender;
- m) sustainable forms of development should be designed, incorporating renewable energy use, minimising waste production and providing opportunities for recycling, and minimising pollution. Development should seek to minimise water use including the incorporation of water recycling and harvesting, and ensure the use of Sustainable Drainage Systems (SUDS). Use or re-use of sustainable materials will be encouraged. Orientation and layout of development should maximise the potential for passive solar heating, taking account of the implications of solar heat gain;

D. Space

- n) proposals should create pedestrian-friendly places that allow for necessary vehicular access;
- o) places should be safe and secure, with effective natural surveillance;
- p) well designed private and semi-private open space should be incorporated for all buildings, appropriate to the character of the area;
- q) opportunities should be taken to support the development of a varied network of attractive, and usable publicly accessible spaces;
- r) provision for parking should where possible be made in discreet but planned locations within the development;
- s) design should seek to retain existing important species and habitats and maximise opportunities for habitat enhancement, creation and management in accordance with Policy EQ1.

The Council's Space About Dwelling standards are set out in Appendix 6.

Development proposals should be consistent with other local planning policies.

Explanation

- 7.59 The Council attaches significant importance to securing a high level of design quality in the District and this is reflected in the adopted Village Design Guide SPD (or subsequent revisions). The NPPF also refers to the importance of achieving high quality and inclusive design and the CABI publication "Making Design Policy Work" highlights a number of important issues to take into account in developing a policy approach to design.
- 7.60 The design guidance set out in the above Policy identifies the importance of local character and distinctiveness, and gives guidance on achieving sustainable development, use, movement, form and space. Achieving safe designs will be important and issues relating to community safety are addressed in Core Policy 13 and Policy CS1.

Key Evidence

Sustainable Community Strategy 2008 – 2020
Southern Staffordshire Surface Water Management Plan Phase 1 2010
Planning for Landscape Change – Staffordshire County Council SPG 1996-

Policy GB1: Development in the Green Belt

Within the South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map, development acceptable within the terms of national planning policy set out in the NPPF will normally be permitted where the proposed development is for either:

- A.** A new or extended building, provided it is for:
- a) purposes directly related to agriculture or forestry; or
 - b) appropriate small-scale facilities for outdoor sport or recreation, nature conservation, cemeteries and for other uses of land which preserve the openness of the Green Belt and which do not conflict with its purposes; or
 - c) affordable housing where there is a proven local need in accordance with Policy H2; or
 - d) limited infilling* and limited extension(s), alteration or replacement of an existing building where the extension(s) or alterations are not disproportionate to the size of the original building, and in the case of a replacement building the new building is not materially larger than the building it replaces. Guidance in these matters will be contained in the Green Belt and Open Countryside Supplementary Planning Document (SPD).
- B.** The re-use of a building provided that:
- e) the proposed use of any building (taking into account the size of any extensions, rebuilding or required alterations), would not harm the openness of the Green Belt or the fulfilment of its purposes.
- C.** Changes of Use of Land:
- f) the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes.
- D.** Development brought forward under a Community Right to Build Order.

Development proposals should be consistent with other local planning policies.

**Footnote: Limited infilling is defined as the filling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site, or have a greater impact on the openness of the Green Belt and the purpose of including land within it.*

List of Persons and Interested Parties

Appeal Ref: APP/C3430/C/24/3349508

Enforcement Ref: 20/00435/UNCOU

Appeal by: Mr Luke Lee

Site at: Squirrels Rest Poplar Lane Hatherton WS11 1RS

1 copy to the Occupier(s)

None

1 copy to the Clerk to Hatherton Parish Council

Hatherton Parish Council, 108 Wellington Drive, Cannock, Staffordshire, WS11 1PX

Email: siancarpenter@outlook.com, maureenwilletts@yahoo.co.uk

1 copy to the Chairman/Vice-Chairman of the Council

Councillor, Dan Kinsey

Email: d.kinsey@sstaffs.gov.uk

Councillor Philip Davis

Email: p.davis@sstaffs.gov.uk

1 copy to the Chairman/Vice-Chairman of the Planning Committee

Councillor Mark Evans

Email: m.evans@sstaffs.gov.uk

Councillor Bob Cope

Email: r.cope@sstaffs.gov.uk

1 copy to the following local member(s)

Councillor David John Williams

Email: d.williams@sstaffs.gov.uk

Councillor Jeff Ashley

Email: j.ashley@sstaffs.gov.uk



The Occupier/Others

Phone: (01902) 696274

Email: appeals@sstaffs.gov.uk

Date: 20 September 2024

TOWN AND COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 174

Appellant's name:	Mr Luke Lee
Site Address:	Squirrels Rest, Poplar Lane, Hatherton, Cannock, WS11 1RS
Alleged breach:	<p>i) Without planning permission, unauthorised development consisting of the erection of a wooden chalet and associated patio area, located on the land coloured green on the Plan.</p> <p>ii) Without planning permission, the material change of use of the Land, to a mixed use as agricultural and residential and for the following non-agricultural uses:</p> <p>a) Use as a paddock for the keeping of ponies/horses on Field 1 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,</p> <p>b) Use as a sensory garden/playground on Field 2 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling,</p> <p>c) Use as a paddock for the keeping of goats on Field 3 outlined in blue on the Plan in connection with the domestic residential use of the adjacent dwelling, including the erection of fencing outlined in pink to facilitate the material change of use of the Land.</p>
Enforcement reference:	20/00435/UNCOU
Appeal reference:	APP/C3430/C/24/3349508
Appeal start date:	19 September 2024

I refer to the above details. An appeal has been made to the Secretary of State against an enforcement notice issued by South Staffordshire District Council on 8 July 2024.

The enforcement notice was issued for the following reasons:

The unauthorised development consisting of the erection of the wooden chalet and associated patio area took place less than four years ago and is not immune from enforcement action. The material change of use of the Land to a mixed use as agricultural and residential and for the non-agricultural uses detailed at paragraph 3 above took place less than ten years ago and is not immune from enforcement action.

The Land is located within the Green Belt to the northern side of Poplars Lane, approximately 350m south-west of a built-up residential suburb of Cannock District. Poplar Lane is a rural, single vehicle width highway that leads to the A5 Four Crosses junction, approximately 0.5km to the south west.

Bridlepath No.4 runs alongside the western boundary between the Land and the neighbouring lawfully established gypsy and traveller site. Public Footpath No.2 is approximately 250 to the north of the site and the boundary of Cannock Chase AONB (along Sandy Lane), is approximately 400m north of the application site at its nearest point.

Permission was granted at appeal in 2014 for the residential conversion of a stable block which lies within the lawfully established residential curtilage to the south of the wooden chalet and to the west of the Land subject of this enforcement notice.

The wooden chalet is located along the western boundary of the Land set against a boundary hedge of trees. As such, its effect on the openness of the Green Belt is limited however it results in development where previously there was none and represents a form of encroachment contrary to paragraphs 135, 142, 143 and 153 of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

What was formerly open fields has now been fenced off with all three fields identified on the Plan being used in connection with the domestic residential use of the adjacent dwelling. Field 1 is used as a paddock for the keeping of ponies/horses, Field 2 for use as a sensory garden/playground with a large children's wooden climbing frame centred in the middle of it, and Field 3 for use as a paddock for the keeping of goats.

The use of three fields for the domestic recreational purposes in connection with the adjacent dwelling identified in this Notice represents a form of encroachment into the Green Belt with the addition of the large children's wooden climbing frame centred in the middle of Field 2 having a clear impact on the openness of the Green Belt and contrary to paragraphs 135, 142, 143, 153 and 155 of the NPPF and policies GB1, EQ4 and EQ11 of the South Staffordshire Core Strategy Adopted 2012.

No very special circumstances have been advanced for the unauthorised development and as such, the development represents inappropriate development within the Green Belt.

The Council do not consider that that conditions could overcome the harm created by the harm to the Green Belt caused by this breach in planning control and as such, planning permission should be refused.

The enforcement notice requires the following steps to be taken:

- i) Remove the wooden chalet and any materials used to form the base and the associated patio area and steps from the Land.
- ii) Restore the Land back to the condition it was in before the wooden chalet and associated patio area was erected upon it.

- iii) Cease the use of the Land for use as a paddock for the keeping of ponies/horses, for use as a sensory garden/playground and for use as a paddock for the keeping of goats.
- iv) Remove the large children's wooden climbing frame and all materials connected to it from the Land.
- v) Remove the fencing (shown in the approximate position marked pink on the Plan used to demarcate Fields 1 - 3) from the Land.
- vi) Restore the Land (outlined in blue marked Fields 1 - 3 on the Plan) back to the condition it was in before the unauthorised development took place.

The appellant has appealed against the notice on the following grounds:

Ground (a) – that planning permission should be granted for what is alleged in the notice.

Ground (c) – that there has not been a breach of planning control.

Ground (d) – that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

Ground (f) – the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.

The appeal will be determined on the basis of a **hearing**. The procedure to be followed is set out in the Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002.

If you wish to make comments, you can do so online at [Planning Inspectorate - GOV.UK \(www.gov.uk\)](https://www.gov.uk) **(Please note that the Planning Inspectorate will not be accepting emailed comments.)** If you do not have access to the internet, you can send your comments to:

Vanessa Poncia
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

All representations must be received by 31 October 2024. Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference.**

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal.

If you submit comments and then subsequently wish to withdraw them, you should make this request to the Planning Inspectorate by the date above.

The appeal documents (including the decision when made) can be viewed online at [Enforcement Appeal Cases \(sstaffs.gov.uk\)](https://www.sstaffs.gov.uk) by clicking on the relevant Enforcement appeal case.

You can get a copy of one of the Planning Inspectorate's "Guide to taking part in enforcement appeals" booklets free of charge from the Planning Portal at: [Taking part in a planning, listed building or enforcement appeal - GOV.UK \(www.gov.uk\)](https://www.gov.uk) or from us.

When made, the decision will be published online at <https://acp.planninginspectorate.gov.uk> and the Council website. Paper copies of the appeal decision can be obtained from the Council. Please be aware that there may be a copying fee.

Helen Benbow
Development Management Manager
Council Offices
Codsall
Wolverhampton
WV8 1PX

Telephone Enquiries: (01902) 696274 (Salindra Shakespeare)

Appeal Ref: APP/C3430/C/24/3349508

Enforcement Ref: 20/00435/UNCOU

Appeal by: Mr Luke Lee

Site at: Squirrels Rest Poplar Lane Hatherton WS11 1RS

The national guidance for Great Crested Newts has been attached below.

Guidance

Great crested newts: advice for making planning decisions

How to assess a planning application when there are great crested newts on or near a proposed development site.

From: **Natural England**
(/government/organisations/natural-england)

Published 14 January 2022

Last updated 26 July 2022 —

Applies to England

Contents

- How GCN are protected
- District level licensing schemes for GCN
- When to ask for a survey
- Assess the effect of development on GCN
- Site management and monitoring

This is Natural England's 'standing advice' for great crested newts (GCN). It is a material planning consideration for local planning authorities (LPAs). You should take this advice into account when making planning decisions. It forms part of a [collection of standing advice for protected species](https://www.gov.uk/guidance/protected-species-how-to-) (<https://www.gov.uk/guidance/protected-species-how-to->

[review-planning-applications#standing-advice-for-protected-species](#)).

Following this advice:

- avoids the need for you to consult on the negative effects of planning applications on GCN in most cases
- helps you make decisions on development proposals

You may need a qualified ecologist to advise you on the planning application and supporting evidence.

You can find one using either the:

- [Chartered Institute of Ecology and Environment Management \(CIEEM\) directory](https://events.cieem.net/RegisteredPracticeDirectory/Registered-Practice-Directory.aspx)
(<https://events.cieem.net/RegisteredPracticeDirectory/Registered-Practice-Directory.aspx>)
- [Environmental Data Services directory](https://www.endsdirectory.com/)
(<https://www.endsdirectory.com/>)

How GCN are protected

GCN are designated and protected as European protected species (EPS). EPS are protected under the Conservation of Habitats and Species Regulations 2017. It is an offence to:

- deliberately kill, injure, disturb or capture them
- deliberately take or destroy their eggs
- damage or destroy their breeding sites and resting places - even if GCN are not present
- possess, control or transport them (alive or dead)

It is also an offence under the Wildlife and Countryside Act 1981 to intentionally or recklessly:

- disturb GCN while they occupy a structure or place used for shelter or protection
- obstruct access to a place of shelter or protection

GCN are [listed as rare and most threatened species](https://jncc.gov.uk/our-work/uk-bap-priority-species/#uk-bap-priority-species-list) (<https://jncc.gov.uk/our-work/uk-bap-priority-species/#uk-bap-priority-species-list>) under Section 41 of the Natural Environment and Rural Communities Act (2006). You need to take account of the

conservation of Section 41 species as part of your planning decision. Find out more about your [biodiversity duty](#).

The developer must comply with the legal protection of GCN.

You should consider if the developer has taken appropriate measures to avoid, mitigate and, as a last resort, compensate for any negative effects on GCN.

The developer may need a [wildlife licence](#) to carry out their proposal.

You can find further guidance on survey, mitigation, management and monitoring for GCN in the:

- [Great Crested Newt Conservation Handbook](https://www.froglife.org/info-advice/our-publications/great-crested-newt-conservation-handbook/) (<https://www.froglife.org/info-advice/our-publications/great-crested-newt-conservation-handbook/>) published on the Froglife website
- [Great crested newt mitigation guidelines](https://webarchive.nationalarchives.gov.uk/ukgwa/20140605121141/http://publications.naturalengland.org.uk/publication/810429?category=30014) (<https://webarchive.nationalarchives.gov.uk/ukgwa/20140605121141/http://publications.naturalengland.org.uk/publication/810429?category=30014>) published on the Natural England evidence catalogue

These documents may not be accessible to assistive technology.

District level licensing schemes for GCN

District level licensing (DLL) is an alternative approach to traditional [mitigation licences](#) (<https://www.gov.uk/government/publications/great-crested-newts-apply-for-a-mitigation-licence>) to develop sites which could affect great crested newts.

It aims to increase numbers of great crested newts by providing new or better habitats in targeted areas to benefit their wider population.

DLL is a simpler, quicker process for developers than applying for a mitigation licence. If there is a district level licensing scheme in the area,

developers can simply apply for a DLL licence and pay for compensation ponds.

Read [Great crested newts: district level licensing schemes for local planning authorities](https://www.gov.uk/guidance/great-crested-newts-district-level-licensing-schemes-for-local-planning-authorities) (<https://www.gov.uk/guidance/great-crested-newts-district-level-licensing-for-local-planning-authorities>) for guidance on how to make planning decisions for proposals using district level licensing.

If a district level licensing scheme is not available or the developer chooses not to use it, you should follow the guidance in this standing advice when assessing planning applications.

When to ask for a survey

If the developer has chosen not to use a DLL where one exists, you should ask them for a survey if any of the following criteria apply:

- distribution and historical records suggest GCN may be present
- there's a suitable water body such as a pond or ditch up to 500 metres of the development, even if it only holds water for some of the year
- the development site includes refuges, such as log piles, rubble, grassland, scrub, woodland or hedgerows up to 500 metres of suitable aquatic habitats (static or slow moving water body)

Surveys up to 250 metres are usually sufficient, but developers may need to increase this to 500 metres if there are no obvious barriers to newts dispersing into the wider environment.

Absence of a record does not mean there are no GCN. It could mean there is no survey data available for that location.

Survey work can include:

- presence or absence surveys, which can include eDNA sampling
- population size surveys of water bodies
- terrestrial and aquatic habitat surveys

Survey data provided by the developer should be no older than 4 survey seasons. The data must reflect the status of the site. If the development is predicted to have a negative effect on GCN, it's important to ask for recent data to make sure it's accurate.

Surveys should also meet industry standards, unless you have sufficient information to assess the application without this data, in line with [licensing policy 4 \(https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences#policy-4-alternative-sources-of-evidence-to-reduce-standard-survey-requirements\)](https://www.gov.uk/guidance/european-protected-species-policies-for-mitigation-licences#policy-4-alternative-sources-of-evidence-to-reduce-standard-survey-requirements). This allows for developers to propose worst-case scenario compensation in certain circumstances.

You must check if the ecologist holds the appropriate and up-to-date survey licence to carry out surveys for GCN. CIEEM publishes:

- [competencies required for species surveys \(https://cieem.net/resource/competencies-for-species-survey-css/\)](https://cieem.net/resource/competencies-for-species-survey-css/)
- advice on the [valid age of data \(https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf\)](https://cieem.net/wp-content/uploads/2019/04/Advice-Note.pdf)

The ecologist should also follow the Biodiversity code of practice for planning and development (BS 42020:2013) available on the [British Standards Institute \(https://www.bsigroup.com/en-gb/standards/\)](https://www.bsigroup.com/en-gb/standards/) website. These documents may not be accessible to assistive technology.

Assess the effect of development on GCN

If a site is not in a DLL scheme, developers should submit qualitative and quantitative information with their planning application on how their development avoids or mitigates harm to GCN.

If there's likely to be a negative effect on GCN, you should consider these factors to assess the site's importance:

- the number of GCN populations and their size

- the nature of the population - for example, if the site includes a breeding water body or is connected to other important populations
- how important the site is to the local and national GCN population, for example how near it is to a [site of special scientific interest \(SSSI\)](https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities) (<https://www.gov.uk/guidance/sites-of-special-scientific-interest-public-body-responsibilities>) where GCN is a listed species

Use the table to see what impact development would have on GCN and their habitat.

Level of impact	GCN habitat affected by development
Normally high impact	breeding ponds terrestrial habitat within 50m of ponds isolation caused by fragmentation of the habitat
Normally high to medium impact	non-breeding ponds occupied by GCN terrestrial habitat 50m to 250m from ponds
Normally medium impact	partial or temporary destruction or change to the habitat post-development interference, such as pollution or the introduction of fish
Normally low impact	temporary disturbance terrestrial habitat further than 250m from ponds

When you assess the planning application, you must look at other GCN habitats within 500m because GCN move and are unlikely to stay in one place.

The location of ponds for GCN is important because GCN ponds can be lost or their value greatly reduced by:

- public access to the pond
- introduction of fish or non-native plants to the pond
- pollution
- lack of access for maintenance and management
- fragmentation and lack of connectivity with suitable habitat nearby

If the developer cannot avoid destroying a GCN breeding pond, they should compensate for this and:

- replace the lost pond with at least 2 new high quality ponds, of the same area or more, on the development site
- make sure the new ponds are ready for GCN before the old pond is destroyed - this is likely to take at least one full growing season
- safeguard or replace other ponds which may be used by GCN within 500m - the developer will need an [EPS mitigation licence](#) to do this

For more information on mitigation plans and compensation measures, read the [planners guide for protected species and development](#) (<https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications#agree-avoidance-mitigation-or-compensation-measures>).

Planning and licence conditions

If the developer has chosen not to use a DLL where one exists and the proposal is likely to affect GCN, the developer must apply for a [GCN mitigation licence](#) (<https://www.gov.uk/government/publications/great-crested-newts-apply-for-a-mitigation-licence>).

Before you can grant planning permission, you must:

- make sure any mitigation or compensation conditions you impose do not conflict with the

requirements of a GCN mitigation licence

- be confident that Natural England will issue a licence

You do not need to consult Natural England on the wording or discharge of any conditions you impose on a planning proposal. Natural England is unable to provide advice on this.

Enhance biodiversity

To meet your [biodiversity duty](https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity) (<https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity>), you should suggest ways for the developer to:

- create new or enhanced habitats on the development site
- achieve a [net gain in biodiversity](https://www.gov.uk/guidance/natural-environment#biodiversity) (<https://www.gov.uk/guidance/natural-environment#biodiversity>) through good design, such as green roofs, street trees or sustainable drainage

Site management and monitoring

For sites not in a DLL scheme, you should consider the need for site monitoring and management. These measures are likely to be needed by protected species licences.

A site management plan could include:

- aquatic vegetation management in ponds
- clearance of shading tree or scrub cover around pond margins
- desilting and clearance of leaf-fall
- mowing, cutting or grazing of grassland
- woodland and scrub management

A maintenance plan should deal with:

- the effects of introducing fish to the pond
- pond leakage
- dumping of rubbish

- fires or other damage
- damage to fences
- tunnel silting or blockage
- damage to interpretation boards

The plan should monitor newts and their habitats, including ponds, after development. It should include carrying out management works to habitats and additional survey work to check that mitigation measures are working as intended, followed by remedial work if needed.

See the [GCN mitigation guidelines](https://wearchive.nationalarchives.gov.uk/20140605121141/http://publications.naturalengland.org.uk/publication/810429?category=30014) (<https://wearchive.nationalarchives.gov.uk/20140605121141/http://publications.naturalengland.org.uk/publication/810429?category=30014>) for more information.

Published 14 January 2022

Last updated 26 July 2022 [+ show all updates](#)

OGL

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Rights of Way plan - Bridleway

