



**South Staffordshire Council**

**STATEMENT OF CASE  
OF  
SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**S174 APPEAL  
PLANNING INSPECTORATE REFERENCE  
APP/C3430/C/24/3349508**

**APPEAL BY: MR LUKE LEE**

**APPEAL SITE: LAND AT SQUIRRELS REST POPLAR LANE, HATHERTON,  
CANNOCK WS11 1RS**

**LOCAL AUTHORITY REFERENCE: 20/00435/UNCOU**

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## **1. INTRODUCTION**

- 1.1 This appeal is brought against the decision by South Staffordshire District Council to serve an Enforcement Notice, (“the Notice”) in respect of land, (“the Land”) at Squirrels Rest Poplar Lane, Hatherton, Cannock WS11 1RS.
- 1.2 The alleged breach of planning control is:
- 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.*
- 1.3 A copy of the Notice served 8<sup>th</sup> July 2024 has previously been sent to the Planning Inspectorate and is produced at Appendix 1.
- 1.4 Land Registry Title Register and Title Plan reference SF304268 showing the Appellants ownership of the Land is produced at Appendix 2.

## **2. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE**

- 2.1 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.
- 2.2 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.

- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 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.
- 2.8 No very special circumstances have been advanced for the unauthorised development and as such, the development represents inappropriate development within the Green Belt.
- 2.9 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.

## 2.10 **National Planning Policy Framework**

- 12. Achieving well designed places
- 13. Protecting Green Belt land

## 2.11 **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

Core Policy 4 – Promoting High Quality Design

EQ11 – Wider Design Considerations

**3. PLANNING HISTORY - EQUESTRIAN**

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)

**4. SUMMARY OF EVENTS**

4.1 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.

4.2 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.

4.3 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 i), the Land was also being used for the matters described at breach ii.

- 4.4 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.
- 4.5 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 was received resulting in the service of the Notice.

## 5. **GROUNDINGS OF APPEAL**

**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 (a)** - That planning permission should be granted for what is alleged 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.

## 6. **LPA RESPONSE TO GROUNDINGS FOR APPEAL – GROUND C**

*Ground (c) - That there has not been a breach of planning control*

- 6.1 The Appellant states that the mere grazing of livestock on land is an agricultural use that extends to horses and goats. Whilst this may be consistent with planning law, that is not what is being alleged.
- 6.2 Neither horses or goats in this instance can be regarded as livestock for the purposes of agriculture. It is well established that anything that extends beyond the mere grazing of such animals on agricultural land is likely to constitute a material change of use. It is clear that both animals are kept for leisure purposes. The LPA's position is that the fencing off of the Land in fields 1 and 3 for the purposes of leisure, are an extension of the residential curtilage of the property. The leisure use is consistent with the residential use of the land in a similar fashion to the use taking place in field 2.
- 6.3 Indeed, the Appellant makes no secret of the fact that the Land in fields 1 and 3 is, in fact, used for the keeping of horses and goats. The Appellants states that this is the case as per the Ground D appeal in that the Land has '*been in continuous use for the keeping/grazing of horses/ponies for well in excess of 10 years*'
- 6.4 On the basis of the Appellants own evidence, it is clear that the use of the Land in fields 1 and 3 is used for the keeping of both horses and goats which constitutes a material change of use of the Land. As such, the LPA respectfully invite the Inspector to dismiss this appeal under Ground C.

## **7. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND D**

*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.*

- 7.1 The Appellant contends that the appeal site, including Field 1, began at the latest in the year 2000 (when the horse exercise arena was constructed) and has been in continuous use for the keeping/grazing of horses/ponies for well in excess of 10 years.
- 7.2 The 'relevant period' for the purposes of Ground D is between 8<sup>th</sup> July 2014 and 8<sup>th</sup> July 2024, i.e. a period of ten years.
- 7.3 The LPA produces aerial imagery at Appendix 3 for the period July 2015 to March 2022 which covers relevant period. Aerial images taken July 2015 to March 2017 show field 1 (including 2 and 3) forming part of the wider agricultural land. It has not been fenced off for any purpose nor is there any indication of equestrian or any other use. This changes in April 2018 when fields 1 to 3 are fenced off. The children's wooden climbing frame can clearly be seen in the centre of field 2. Fields 1 to 3 do not change and remain the same up to the aerial image of March 2022.
- 7.4 A photograph of fields 1 and 2 taken from an officer's site visit on 21<sup>st</sup> December 2020 is produced at Appendix 4 to complement the aerial imagery. Other than the Appellants claim that the Land has been in continuous use for the keeping/grazing of horses/ponies for well in excess of 10 years, no other supporting evidence has been produced. The aerial imagery most certainly cannot support it.
- 7.5 Conversely, aerial imagery from April 2018 shows the fields 1 to 3 have been segregated from the wider agricultural land for the purposes of the matters contained in the Notice. The LPA contend that it is more likely than not, under these circumstances, that such a material change of use of the Land took place from this point onwards.
- 7.6 Even if it was accepted that an equine use of field 1 (and/or fields 2 and 3), had been taking place from the year 2000 onwards, (which it is not), this would not constitute a closely associated leisure/domestic use in connection with the nearby residential dwelling as alleged in the Notice. As such, the Appellant has failed to demonstrate on the balance of probability a continuous use of fields 1 and 3 for a period of ten years or more and the LPA respectfully invite the Inspector to dismiss the appeal under Ground C.

## **8. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND A**

*Ground (a) - That planning permission should be granted for what is alleged in the notice*

- 8.1 The Appellant states at paragraph 5.10 of their statement of case that the appeal site is not located within a SPA, SSSI, Conservation Area, Local Green



Space, AONB or, National Park. The Appellant then references the appeal site as a proposed caravan site which it clearly is not however, it is accepted that this is a cut and paste error. In any event, the appeal site is located within the Green Belt, where there is a presumption against inappropriate development.

- 8.2 The Appellant contends that the use of Fields 1 and 3, even if considered to be a material change of use from agriculture, can only be for recreation/hobby use, which is a form of development which is clearly appropriate in the Green Belt. The position of the LPA is the same at that outlined at paragraph 7.6 above. As an extension to the adjacent residential dwelling, (or even on its own as a leisure use), the development cannot take advantage of the exception at paragraph 154 (b) of the NPPF because it represents a form of encroachment which conflicts with one of the 5 purposes of including land in the Green Belt, accepting that in the case of Fields 1 and 3, there is no impact on openness.
- 8.3 As regards the sensory garden/playground located in respect of Field 2, there can be little doubt that this forms an extension to the adjacent residential dwelling. Furthermore, and as is accepted by the Appellant, the wooden climbing frame has a clear impact on the openness of the Green Belt. The LPA contend that its appearance provides for an urbanising feature and a form of encroachment in the Green Belt into what was, formerly, an open field free from development with unobstructed views. As such the material change of use of the Land in Field 3 and associated unauthorised development constitutes inappropriate development within the Green Belt.
- 8.4 The Appellant states that the wooden chalet is just a large shed used as a sensory room for the appellant's son, who suffers from severe autism. The Appellant agrees that the wooden shed would result in some loss of openness in spatial terms but, visually, is well-screened from public vantage points by the existing dwelling to the south-east and adjacent hedgerow along its south-western flank. The LPA agrees that the impact on openness is minimum due to its position however, there is a clear form of encroachment into the Green Belt which again extends the residential curtilage of the nearby dwelling.

#### Very Special Circumstances

- 8.5 The Appellant contends that the appellant's residential curtilage is completely hard-surfaced and, has nowhere soft where the appellant's son can play safely without falling and hurting himself. Likewise, there is nowhere within the residential curtilage where play equipment can be safely installed. The Inspector is invited to look at the extent of the curtilage of the dwelling house which would provide ample space for either a chalet or soft play area or both. The case for very special circumstances by the Appellant is a poor one in consideration of the planning balance against the identified harms. The LPA contend, therefore, that there are no very special circumstances to justify the unauthorised development subject of the Notice in consideration of the planning harm identified in this statement. The Inspector is therefore respectfully invited to dismiss the appeal under Ground A.

**9. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND F**

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

**9.1 Requirement (iii)**

Requirement iii) does not require the use of the land for the grazing of horses and goats to cease, it requires the use for the keeping of horses and goats in connection with the domestic residential use of the adjacent dwelling to cease as per the breach in planning control outlined at 3.2 a) & c) of the Notice. The requirement is therefore entirely consistent with the breach and is not excessive.

**9.2 Requirement (vi)**

The requirements of the Notice require the fencing and wooden climbing frame to be removed. Inevitably, given that the fencing has posts fixed into the ground, an amount of restoration will be required to put the land back into the condition it was in before development commenced. Again, it is entirely consistent with the breach and the requirements to remove the unauthorised development that has been carried out to facilitate the material change of use.

**9.3** The LPA contend that the requirements at iii) and vi) are not excessive but required to reflect the pre-existing condition of the land. The Inspector is therefore respectfully invited to dismiss the appeal under Ground F.

# APPENDIX 1

# **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.

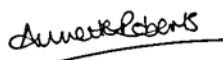
## **6. TIME FOR COMPLIANCE**

Three months from the date the notice takes effect.

## **7. WHEN THIS NOTICE TAKES EFFECT**

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

Dated: 8<sup>th</sup> 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 8<sup>th</sup> 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 8<sup>th</sup> 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 8<sup>th</sup> 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](mailto: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.]<sup>1</sup>

#### Notes

<sup>1</sup> 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.”] <sup>1</sup>

Notes

<sup>1</sup> 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.] <sup>1</sup>

Notes

<sup>1</sup> 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).<sup>1</sup>

Notes

<sup>1</sup> 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—

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- (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).<sup>1</sup>

Notes

<sup>1</sup> 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] <sup>1</sup>

**[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.]<sup>1</sup>

**Notes**

<sup>1</sup> 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.

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- (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.<sup>1</sup>

#### Notes

<sup>1</sup> 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.

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- (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.]<sup>1</sup>

**Notes**

<sup>1</sup> 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.]<sup>1</sup>

#### Notes

<sup>1</sup> 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;

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- (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.]<sup>2</sup>

(3) An appeal under this section shall be made [...] <sup>3</sup> —

(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 ]<sup>3</sup>

(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.]<sup>3</sup><sup>1</sup>

(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 [...] <sup>4</sup>; and

(b) Continues so to occupy the land when the appeal is brought.

#### Notes

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

<sup>2</sup> 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)

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<sup>3</sup> 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)

<sup>4</sup> 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.]<sup>1</sup>

- (4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)]<sup>2</sup> 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.

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(7) [...] <sup>3</sup>

## 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.]<sup>1</sup>
- (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.

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**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;]<sup>1</sup>
- (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.]<sup>2</sup>

[(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.]<sup>2</sup>

[(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).]<sup>3</sup>

- (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.]<sup>4</sup>

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- (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.]<sup>5</sup>

[(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.]<sup>6</sup>

- (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  
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Temple Quay  
Bristol  
BS1 6PN

Direct Line: 0303 444 5000

Email: [enquiries@planninginspectorate.gov.uk](mailto: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.

# APPENDIX 2



The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



# Official copy of register of title

Title number SF304268

Edition date 04.02.2019

- This official copy shows the entries on the register of title on 23 FEB 2024 at 13:23:19.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 23 Feb 2024.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Birkenhead Office.

## A: Property Register

This register describes the land and estate comprised in the title.

STAFFORDSHIRE : CANNOCK CHASE

- 1 (13.11.1991) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land on the north west side of Poplar Lane, Hatherton, WS11 1RS.
- 2 (13.11.1991) The land was formerly copyhold of the Manor of the Deanery of Wolverhampton and the rights saved to the lord by the 12th Schedule of the Law of Property Act, 1922 are excepted from the registration.
- 3 (13.11.1991) The Conveyance dated 8 November 1991 referred to in the Charges Register contains the following provision:-  
  
"IT IS HEREBY AGREED AND DECLARED that the Purchasers shall not acquire any right of light or air or other easement or right which would restrict or interfere with the free use of the adjoining land of the vendors for building or any other purpose"

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (04.02.2019) PROPRIETOR: LUKE EATHEL LEE of Squirrels Rest, Poplar Lane, Cannock WS11 1RS.
- 2 (04.02.2019) The price stated to have been paid on 10 January 2019 was £165,000.

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (13.11.1991) The land is subject to the rights granted by a Deed of Grant dated 26 August 1983 made between (1) Eric James Holford, Timothy

## C: Charges Register continued

Holford and Paul Stanley Holford and (2) Staffordshire County Council.  
The said Deed also contains covenants by the grantor.

*NOTE: Original filed.*

- 2 (13.11.1991) The land is subject to the following rights reserved by a Conveyance of the land in this title dated 8 November 1991 made between (1) Eric James Holford and Others (Vendors) and (2) Ian Darlington and June Alice Darlington (Purchasers):-

"SUBJECT TO a right for the Vendors their successors in Title and all persons authorised by them at all times and for all purposes with or without horses cars or other vehicles to pass and repass and to drive horses sheep cattle and other animals over and along the piece of land shown edged in green on the said plan SUBJECT to contributing a fair proportion of the cost or repair and maintenance thereof EXCEPT AND RESERVED unto the vendors and their successors in title all existing rights quasi easements and privileges as are now enjoyed and which had the property hereby conveyed and the adjoining property of the Vendors and adjacent property at all times previously hereto belonging to different owners would have been easements quasi easements or privileges in the nature of easements such aforesaid rights and quasi easements and privileges to be enjoyed in common by the owners of the respective premises affected thereby the respective owners thereof contributing a fair and reasonable proportion of the cost of maintaining the same"

NOTE: The land edged green has been tinted blue on the filed plan.

End of register

**These are the notes referred to on the following official copy**

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 23 February 2024 shows the state of this title plan on 23 February 2024 at 13:23:20. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Birkenhead Office .

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# H.M. LAND REGISTRY

TITLE NUMBER

## SF304268

ORDNANCE SURVEY  
PLAN REFERENCE

SJ9609 SJ9610

SECTION

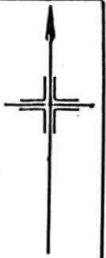
Scale

1/2500

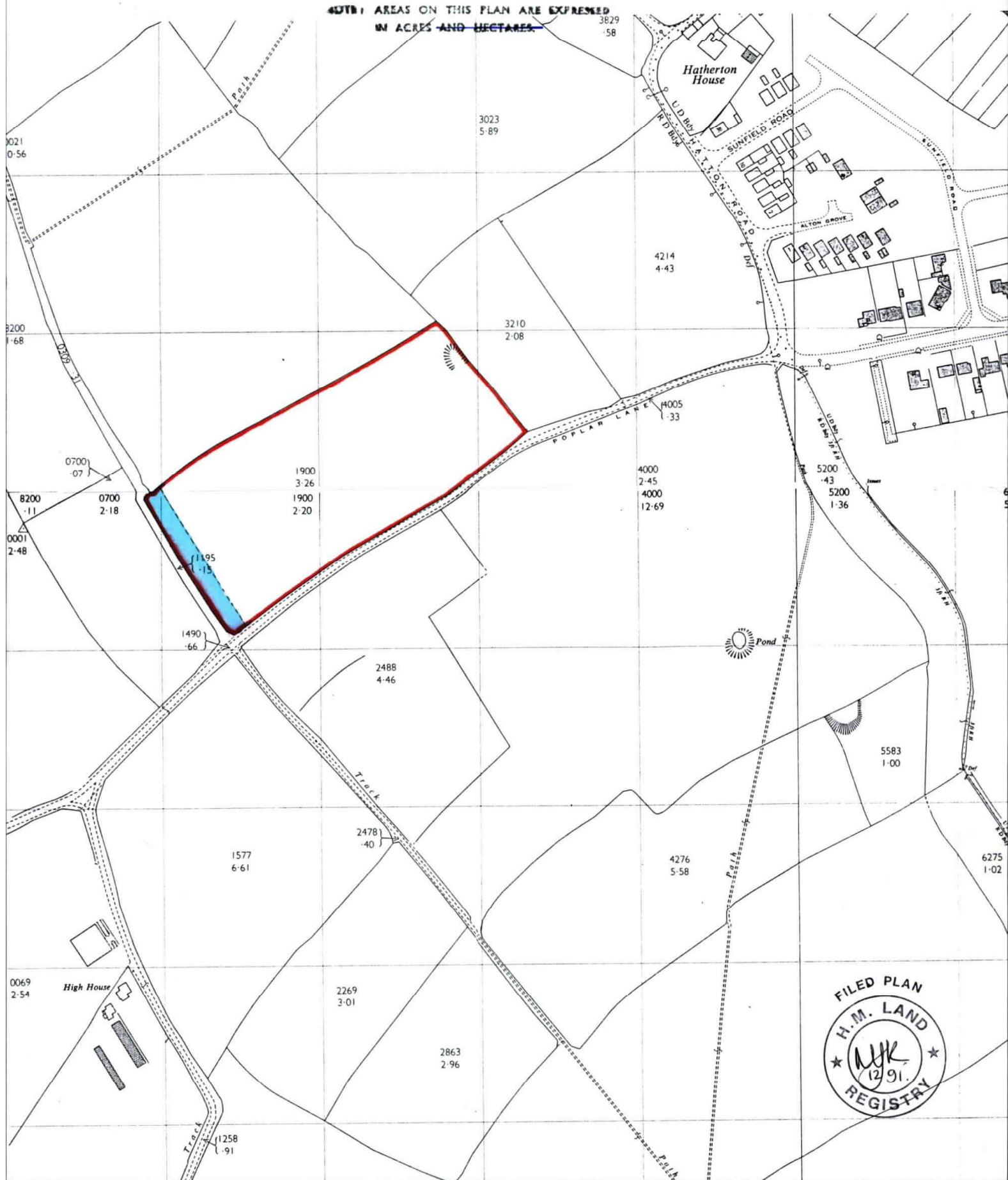
COUNTY STAFFORDSHIRE

DISTRICT SOUTH STAFFORDSHIRE

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NOTE: AREAS ON THIS PLAN ARE EXPRESSED  
IN ACRES AND HECTARES.



FILED PLAN  
H.M. LAND  
REGISTRY  
12/91

# APPENDIX 3

July 2015



April 2016





March 2017



April 2018



May 2019



March 2022



# APPENDIX 4



# APPENDIX 5







South Staffordshire Council

# Core Strategy

December 2012



Further information can be found at  
[www.sstaffs.gov.uk](http://www.sstaffs.gov.uk)



A Local Plan for  
South Staffordshire

# **Core Strategy Development Plan Document**

**Adopted 11<sup>th</sup> December 2012**

South Staffordshire Council

### **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.*

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-