

Final statement . 17/01/2025 M Gripton

This is the final statement of my defence regarding the enforcement notice for **CHANGE OF USE**, that I believe is issued wrongly and should be quashed/dismissed immediately.

This enforcement notice is based upon a single complaint of a caravan parked on the approved hard standing at my paddock, I cannot see how this is defined as a change of use, especially as the caravan is gone and the council were aware prior to issuing the enforcement notice that it would be removed by the end of October? The council seem to then bring other non related elements in to the notice to bolster their enforcement notice and these elements do not constitute a change of use or form part of the original complaint. In my view this enforcement notice should be quashed as nothing more than a witch hunt by the council. The driving force for this I can, but won't, speculate upon.

My understanding is that this notice is based up on three discreet and separate non related issues, In order to support a very weak complaint and I believe that the council have intentionally wrapped these three separate issues together in order to be able to raise an enforcement notice in order to reverse the decision made by the planning inspectorate.

I believe this is a misuse/misfeasance of public office in order to achieve a desired outcome that is prejudice to a member of the public and will be raising this with the Local Government and Social Care Ombudsman. I have listed the three separate issue below and feel that the enforcement notice can only be applied to issue 3 where 1 and 2 are totally separate and cannot and should not be contemplated within this complaint.

1. Issue 1 the use of the paddock as a small recreational/campsite facility for temporary camping to park my caravan/tent or motor home on for up to 28 night per year is a permitted development under the "28 night rule" and requires no approval, this gives the paddock its domestic appearance when in use.
 - a. The 28 night rule is the permission we use to stay on the paddock for up to 28 nights per year and I have confirmed with the council that I am able to do this without any additional permission or approval and they confirm that is the case under the 28 night rule. So my staying on the Paddock is not subject to the appeal decision or any other planning approvals and is my right as a land owner under the 28 night rule. I only stay overnight on the paddock using this permitted development for up to 28 nights per year and have done so for over **15 years**. Therefore the staying on the Paddock overnight for 28 nights is outside the scope of this notice and I would like any references to overnight stays and associated campfires or other use of the paddock as a recreational facility or domestic element removing from this complaint as it is permitted for up to 28 nights. The council agreed that I am able to stay at the paddock under the 28 night rule and therefore I cannot understand how they are wrapping this element of domestic use into the enforcement notice. When we use the paddock as a campsite this is when the removable fire pit is used and has been for 15 years, we also use the decking area and bring camping chairs to sit on during these stays and therefore the Paddock has always had a recreational/domestic use by our family for over 15 years. This is long before the appeal decision and long before the complainant ever lived in Toft house. This recreational/domestic element was not covered by the appeal as it is permitted development and therefore the site already has permission for use as a recreational/domestic/campsite facility for up to 28 nights per year. Therefore the council reference to change of use from allotment to domestic is factually incorrect as it has and is already used for recreational/domestic use whilst using the 28day rule for over 15 years therefore any reference should be removed in relation to the sheds hard standing and walkways. Only allotment 1,2 and 3 were identified as allotments during the appeal as shown on the approved plan copied below, these are marked out in red areas and do not overlap the sheds, walkways or Hard standing, and these areas are now left fallow, which is not a change of use.
2. Second is the approved granted for the retention of the sheds, walkways and hard standing iaw the approved plan in 2015.
 - a. This is a stand alone element and is not dependant on the land used as an allotment, as stated by the inspectorate, the inspector went further than required by stating that he would not allow the additional conditions requested by the council to restrict this approval to agricultural use as he defined the use as "other use of the land" nor would he time band the approval. The approval was not specified or tied to any specific use, as stated by the inspector, and it is wrong of the council to miss quote the inspector and twist the written approval for their own benefit. Land for agricultural use requires no permission therefore a change of use cannot be associated with the sheds, walkways or hard standing as these were not subject to approval for agricultural or allotment use only, but as stated "other use of the land" as they were described in the appeal as storage of equipment and use as shelter from the weather and somewhere to keep dry and warm, and this remains extant. The hard standing is for parking a vehicle on and the walkways to provide safe walking areas and this is still their current use. The approved plans did show 3 areas as allotments, so only these areas could actually be considered as use as allotments and these are marked as allotment 1, 2 and 3 on the approved plans, these areas are currently left fallow so again no change of use.
 - b. The sheds are still used to house equipment for the maintenance of the area with cutting equipment, movers, rotavators and chainsaws, spades, folks and Hoe etc all stored within the sheds, so these functions remain extant to the approval gained in 2015 and therefore have not had any change of use. As for the hard standing, it remains extant for parking, the walkways have not changed and the raised seating are described by the council as "new" has not changed from the approved plans in 2015 and I find is disingenuous of the council when they can clearly see that the seating area is the same as 2015, albeit now in a poor state of repair and in need of maintenance. The only elements that has had any modifications are the pallet toppers laid on the ground that became dangerous for the grandchildren and anyone else walking on them so we covered these with artificial grass to provide a safe walking environment for visitors during the 28 night rule and during periods of maintenance for us on the site under our duty of care. I feel that work to provide a safe area is the responsibility of the land owner and cannot be described as a development unless it is adding additional function the site. The fire pit described by the council, is a wire basket that has been at the paddock for over 20 years and belonged to my father who passed away in 2004. We have always used this wire basket as a temporary fire pit during the 28 night stays and have often had campfires for the grandchildren and have done so for over 15 years, we also use it to burn acorns and leaves during periods of maintenance, so again is not new or a new feature. It is movable and is now in the shed and will only be used as and when we are on site to carry out maintenance or during the 28 night rule.
The wire basket mainly stands within the area approved in 2015 so it is central and on non combustible material, but has also been laid on the grass areas when using the paddock as a recreational facility/temporary campsite during the 28 night rule. The only difference is that in 2015 the ground the fire pit is on was MoT type 2 and had the four posts and mesh nets and a water

but, whereas now we have repositioned the posts and removed the water butt and netting and overlaid the MoT type 2 with old bricks to allow burning of items, for safety reasons we tried to keep it away from the decking so as not to burn or set the decking on fire.

This area is shown in the photo below as previously holding a water butt and some growbags for plants around the edge with the wooden posts (only 2 of which are now located on the upright pallet toppers as support, so not new just repositioned) and the green plastic bird nets standing about 2m tall, this was as inspected in 2015. These elements we removed around 2020 and this left a hole, so for safety of people to walk around without falling in to the lower base we laid old bricks over the MoT type 2. This area is now 500mm tall and flat with small poles around the edge that are temporary and can be moved into and out of position as required to protect people from falling on to the fire, not 2m high as in 2015. So is in fact less of an impact. This I see as maintenance work and is the duty of the land owner to make an area safe for visitors, the same as a farmer using old bricks in field gateways for entry and exit of vehicles, and as we have permission for this area iaw the approval in 2015 is simply our duty of care. I believe the council are trying to reverse/overtake the approval of the inspector in 2015, of which I find unprofessional and slightly dishonest. I do not believe or understand how this element falls within the enforcement notice given by the council as there is no change of use that can be considered for the sheds, walkways and hard standing iaw the plan. The solar lights have been permanently removed as they were only temporary.

- c. The parking of a caravan on the hard standing, this is the only element that I agree could be at variance to that considered by the council. I assumed that because we had approval for a hard standing in 2015, that we could park our caravan on there temporarily between uses, the council did not agree with my assumption and that I believe was the entire basis for the enforcement notice as a result of the complaint. The council had a crazy idea that the hard standing is only for use whilst we are working on the allotments, but then conceded that it can be used as it is for the 28 night rule to park our caravan or motorhome on for up to 28 nights a year and also to park on if we visit the paddock to carry out maintenance or if we just visit the paddock, so they completely undermined their own argument. As I stated to the council the caravan would be moved by the end of October, I cannot understand why the council have been so awkward in pursuing this enforcement notice and feel that the complaint was about the caravan that has now gone and will not be returning. The council were aware of this prior to issuing the enforcement notice, so I do not believe there is any reason for this enforcement notice to be progressed any further as the caravan has gone. I would like the enforcement notice to be quashed/cancelled please.

3. The change use of the land from an allotment to residential for storing a caravan.

- a. The paddock is not designated as an allotment and has in fact for an even longer period been used as a small recreational facility/temporary campsite under the 28 night rule. This gives it its domestic aspect as staying in our motor home having a campfire, having seating and tables other garden related elements whilst there and using the shed as a area for eating and drinking as well as keeping warm is the elements that the complainant is referring to. As these aspects are nothing to do with the appeal notice of 2015 as they are covered by the 28 night rule, they have no bearing on this enforcement notice and the council should be aware of this and I wonder what is the driving force behind their continued attacks. Therefore I ask that the enforcement notice be quashed as there is no basis for the complaint.
- b. The plan did specify Allotment 1,2 and 3 during the application but the inspector stated that growing of vegetables in a paddock required no permission and therefore was out of scope of his investigation and therefore the allotment element cannot be used as a change of use when there was no specific definition of the use of the land other than "other use of the land". The three areas marked on the plan as Allotment 1,2 and 3 are simply left fallow and therefore no change of use has occurred and therefore no breach has occurred. Therefore I ask that the enforcement notice be quashed as there is no basis for the complaint.



Without planning permission, the material change of use of the Land for the permanent stationing of a caravan on the area coloured blue on Appendix 1 (temporary, and its gone as the council know about and was always the intension) and associated domestic use of the Land, including the erection of a fire pit, surrounding pallet benches, timber posts and artificial grass located on the land coloured orange on Appendix 1, such use not being incidental or ancillary to the use of the land as an allotment development permitted by Appeal Decision

APP/C3430/W/15/3006045. This is a factually untrue and seems to be the council clutching at straws to win a poor case of enforcement and reverse the decisions of the planning inspectorate. This paddock is not and has never been used solely as an allotment and has for the past 15 years plus years had a domestic use. In fact the only reason that we had to go through this appeal was because of a new resident to Toft House seemed to be hell bent on causing as much trouble as he could as soon as he moved in to the area.

We have used the paddock as a small recreational facility for over 15 years by staying overnight in our motor home on the hard standing under the 28 night rule, thus defining the paddock as a small recreational facility/temporary campsite that requires no permission under the 28 night rule. And the hard standing that has been in the paddock for over 45 years and was put there by my father for the horsebox to park on to get our pony to and from the paddock, when it was used to field our pony.

Therefore the council cannot state that there has been a change or a change has occurred that is incidental or ancillary to the use of the land as allotments as it is not defined solely as an allotment, either by use, or by the appeal decision and feel this enforcement should be quashed immediately.

When at the paddock we have always had chairs tables and a shed with a log burner that provides heat on those days it might be cooler, this was all well before the appeal decision and it has always had a domestic appearance as a result of this. For over 15 years we have visited the paddock for picnics for the day parking on the hard standing and using the decking as a picnic area. We also park in there whilst walking across the public footpaths or for carrying out maintenance work, the paddock requires allot of maintenance, hedges to cut, grass to mow, trees to trim back fences to repair, drainage to be cleared, ditches to be maintained, none of this is aligned or connected to allotments, it's just maintenance and that is what the sheds were originally there for, to house equipment, years ago it was some equestrian equipment. The sheds, walkways and hard standing had been there for years before the idea of allotments came about and the allotment was only an idea so we could take our grandchildren of 4 and 2 in 2015 to a place to grow vegetables.

I do not believe this enforcement notice has any legal basis to be enforced and would like it quashed/dismissed immediately please.

REASONS FOR ISSUING THIS NOTICE

- (i) It appears to the Council that the breach of planning control on the Land has occurred within the last ten years, and therefore is not immune from enforcement action.
- (ii) **The stationing of the Carvan** causes unacceptable harm to the character and appearance of the surrounding countryside. The caravan has gone and the council have always been aware that I intended to sell the caravan and have it gone by the end of October if not sooner. Policy OC1 of the South Staffordshire Core Strategy adopted in December 2012 notes that development within the Open Countryside will normally be permitted where the development preserves the appearance and character of the Open Countryside beyond the Green Belt. Policy EQ4 of the Core Strategy notes that the intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. The unauthorised change of use for the permanent (it was always temporary and the council know this) stationing of a residential caravan and associated domestic use of the Land is considered to have a detrimental impact on the appearance and character of the Open Countryside, Page 2 of 20 diminishing the intrinsic rural character of the surrounding paddocks and fields, contrary to policies OC1 and EQ4 of the South Staffordshire Core Strategy. (iii) The landowner who has confirmed that the Caravan is used for occasional residential use disagrees with the Council's stance that the stationing of the caravan requires planning permission I actually said that I did not think I needed any additional permission to that received on the appeal decision for the approval of a hard standing, but conceded that this needed to be clarified with the inspectorate. The landowner was provided with the opportunity to remove the caravan from the Land but has not done so. This is a deliberate lie, I informed the council that the caravan was to be removed by the end of October and if the council could wait it would be put the caravan up for sale on my return from Tenerife in Mid September, it was the council that said no and it had to be removed immediately, of which I said I could not remove it immediately as I

had nowhere to store it and was imminently going to Tenerife for 3 months and returning mid September, but asked if they could wait, the council refused. . The landowner has also interpreted Appeal Decision APP/C3430/W/15/3006045 to indicate there is no defined use of the land (as I have tried to explain to the council, it is not what I have interpreted but what is stated in the appeal decision. The appeal decision states that the decision is based up on “other use of the land that does not cause harm” etc etc, it is not my interpretation, it is stated in the appeal decision. (i.e. they believe they can utilise the land in manners outside of the permitted allotment use) We have used the paddock (land) in manners outside the allotment use for 20 years and continue to do so and I do believe we can continue to use the paddock in manners outside of the allotment. We use the paddock as a small recreational facility under the 28 night rule, the council concede that I can use the 28 night rule and I spoke to the council about how and why I am not tied to just using the Paddock for allotments. It is the council that are fixated about the paddock only being able to be used for Allotments, I suspect they would raise an enforcement notice if I were to field a horse in the Paddock and call that a change of use to equestrian, interestingly that was why my father purchased the Paddock over 45 years ago, to field our pony, as we did. As such it is now considered both expedient and within the public interest to proceed with formal enforcement action to remedy the harm caused by this development (this is misuse of public office and is the council trying to reverse a decision made by the Planning inspectorate as they were not happy that approval was granted 10 years ago) . (iv) The Council considers that planning permission should not be given (it has already been given) , because planning conditions could not overcome these objections to the development.

STEPS TO BE TAKEN:

- (i) Permanently remove the caravan and cease the use of the Land for the stationing of a caravan.
 - a. The caravan has gone as I told the council it would be. I am still going to use the paddock as a small recreational facility as I have done for over 14 years and therefore will continue to stay over night up to 28 but possibly 60 nights in the future following the planning changes with the need for any planning permission.
- (ii) Remove all materials and services connected to the caravan from the Land. There were non
 - (ii) Permanently remove the outdoor fire pit, surrounding pallet benches and timber posts, as well as artificial grass from the Land, including any foundations.
 - a. The Fire basket is in the shed as it is movable and will be used to burn garden waste as required and also used under the 28 night rule as a recreational facility/ temporary campsite for a camp fire as it has been for over 15 years.
 - b. The Pallet (benches) were included in original appeal and have permission, these have not changed from the original approval so do not believe there is a need to remove these and the photographs prove this.
 - c. The Posts are those that previously formed the supports for the central area with the water butt and were moved to provide a safe structure for the pallet backs as they were moving in the wind.
 - d. The Artificial grass covers the original approved pallets toppers and is there as a safety measure as the pallet toppers proved to be unsafe for the children and became a trip hazard and under our duty of care we are required to make the area safe the grass is more appealing than the wooden pallet toppers and is within the original plan area.
- (iv) Remove from the Land all materials arising from compliance with (i), (ii) and (iii) above.

What I would like to achieve from this appeal

What I would like is to have the inspectorate to give some clarity please on the 2015 appeal notice as I am left with a differing view to that of the council and feel it would answer allot of questions if the following could be clarified.

1. I do not believe the sheds, walkways and hard standing area was not designated by the inspectorate as solely for Allotment use?
2. Is the area for the sheds, walkways and hardstanding designated as “other use of the land”?
3. The areas marked Allotment 1,2 and 3 was marked out for use as allotments, but not actually specified by the inspectorate for that use?
4. The hardstanding is not limited to parking a vehicle on only whilst tending the allotments? And can be used for parking a motorhome/caravan, under the 28 night rule, as has been the case for 15 years and also any other vehicle?
5. The approval for the hard standing allows for any vehicle to be parked on the hard standing for any period of time? Or does it reflect that certain vehicles i.e. Caravan, Motorhome, Horsebox, Trailer or other large vehicle cannot be parked on the hard standing for any length of time?
6. The use of the allotments or not, does not change the approval from 2015?
7. The decking and sheds are getting old and in need of replacement and repair so am I able to replace the decking and sheds with a new like for like shed or decking?

Notes for clarification of the above:

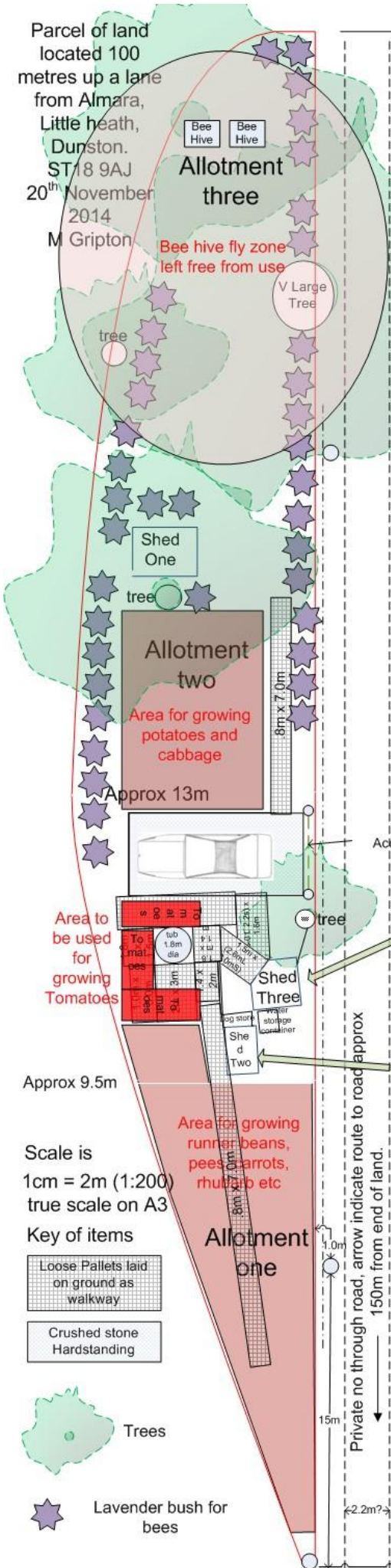
As these sheds, walkways and hard standing have been on the site for many years prior to the original complaint I am unsure how or why the council are insinuating they were only there to facilitate the allotments. The sheds previously had hay bales, shovels etc and one shed was used as a day shelter for the pony to stand in if it rained or was too hot. Then for keeping equipment in of my fathers and latterly for storing of our equipment, as mentioned above, so there use prior to the allotments was already established for over 40 years.

- a. My understanding of the appeal notice is that the sheds, walkways and hardstanding area (all of which have been on the land for many years and used prior to the appeal notice) was designated as "other use of the land etc etc" and this was reconfirmed by the council trying to limit this area to agricultural and the inspector refusing, the inspector also refused to time limit the permission to the allotments, thus agreeing that this area was not designated as allotments or a condition of using the allotments for agriculture or for any specific time.
- b. The inspector stated that "other uses of the land" could be small recreational facilities (recognising the fact that we use this are as a small recreational facility/ Temp campsite under the 28night rule when we stay in our motorhome and also when we visit the site for any other reason). Below and specifically in red is what the inspector stated and is the basis of my understanding of the notice as to why it isn't just Allotment use and hence the variance with the council.

11. Policy OC1 of the Core Strategy states that new building will normally be permitted within the designated Open Countryside where it is for, amongst other things, purposes directly related to agriculture, or appropriate small-scale facilities for outdoor sport and recreation and other uses of land which preserve the appearance or character of the Open Countryside.

12. I note that it is disputed whether allotments fall within the definitions of agricultural or outdoor recreational uses. However, even if I were to conclude that allotments are not agriculture or outdoor recreation, Policy OC1 permits development for other uses of land which preserve the appearance or character of the Open Countryside. Allotments are not excluded from the definition of 'other uses of land' and I have already concluded that the development on the appeal site does not cause unacceptable harm to the character and appearance of the surrounding countryside.

Parcel of land located 100 metres up a lane from Almara, Little heath, Dunston, ST18 9AJ
 20th November 2014
 M Gripton



Allotment three

Bee hive fly zone left free from use

V Large Tree

Shed One

Allotment two

Area for growing potatoes and cabbage

Approx 13m

Shed Three

Area to be used for growing Tomatoes

Shed Two

Approx 9.5m

Area for growing runner beans, peas, carrots, rhubarb etc

Allotment one

Scale is 1cm = 2m (1:200) true scale on A3

Key of items

Loose Pallets laid on ground as walkway

Crushed stone Hardstanding

Trees

Lavender bush for bees

Private no through road, arrow indicate route to road approx 150m from end of land.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

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 Levedale Road, Levedale, Staffordshire ST18 9AJ ("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**

Without planning permission, the material change of use of the Land for the permanent stationing of a caravan on the area coloured blue on Appendix 1 and associated domestic use of the Land, including the erection of a fire pit, surrounding pallet benches, timber posts and artificial grass located on the land coloured orange on Appendix 1, such use not being incidental or ancillary to the use of the land as an allotment development permitted by Appeal Decision APP/C3430/W/15/3006045.

4. **REASONS FOR ISSUING THIS NOTICE**

- (i) It appears to the Council that the breach of planning control on the Land has occurred within the last ten years, and therefore is not immune from enforcement action.
- (ii) The stationing of the Caravan causes unacceptable harm to the character and appearance of the surrounding countryside. Policy OC1 of the South Staffordshire Core Strategy adopted in December 2012 notes that development within the Open Countryside will normally be permitted where the development preserves the appearance and character of the Open Countryside beyond the Green Belt. Policy EQ4 of the Core Strategy notes that the intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. The unauthorised change of use for the permanent stationing of a residential caravan and associated domestic use of the Land is considered to have a detrimental impact on the appearance and character of the Open Countryside,

Page 1 of 20

diminishing the intrinsic rural character of the surrounding paddocks and fields, contrary to policies OC1 and EQ4 of the South Staffordshire Core Strategy.

- (iii) The landowner who has confirmed that the Caravan is used for occasional residential use disagrees with the Council's stance that the stationing of the caravan requires planning permission. The landowner was provided with the opportunity to remove the caravan from the Land but has not done so. The landowner has also interpreted Appeal Decision APP/C3430/W/15/3006045 to indicate there is no defined use of the land (i.e. they believe they can utilise the land in manners outside of the permitted allotment use). As such it is now considered both expedient and within the public interest to proceed with formal enforcement action to remedy the harm caused by this development.
- (iv) The Council considers that planning permission should not be given, because planning conditions could not overcome these objections to the development.

5. **WHAT YOU ARE REQUIRED TO DO**

- (i) Permanently remove the caravan and cease the use of the Land for the stationing of a caravan.
- (ii) Remove all materials and services connected to the caravan from the Land.
- (iii) Permanently remove the outdoor fire pit, surrounding pallet benches and timber posts, as well as artificial grass from the Land, including any foundations.
- (iv) Remove from the Land all materials arising from compliance with (i), (ii) and (iii) above.

6. **TIME FOR COMPLIANCE**

Three (3) months from the date the notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on 9 September 2024 unless an appeal is made against it beforehand.

Dated: 6 August 2024

Annette Roberts

