

The Planning Inspectorate

QUESTIONNAIRE (s174) ENFORCEMENT NOTICE (Online Version)

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

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

Appeal Reference	APP/C3430/C/24/3336376
Appeal By	MR STUART MALONEY
Site Address	1 Broomhall Cottages Horsebrook Farm Lane Brewood STAFFORD ST19 9LD

PART 1

- 1.a. Do you agree to the written representation procedure? Yes No
- Note: If the written procedure is agreed, the Inspector will visit the site unaccompanied by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts.
- 2.a. If the written procedure is agreed, can the relevant part of the appeal site be seen from a road or other public land? Yes No
- 2.b. Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No
- 2.c. Are there any known health and safety issues that would affect the conduct of the site inspection? Yes No
- Please describe:
- 2.d. Would the Inspector have to go onto any privately owned adjoining land as well as the appeal site itself? Yes No

PART 2

3. Are there any related appeals currently before the Secretary of State, e.g. under s.78, 174 or 195 of the Town and Country Planning Act 1990, s20 or 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or orders under s102 of the Town and Country Planning Act 1990? If yes please provide reference number(s) Yes No
- 4.a. Has the local planning authority received the correct fee payable for the deemed planning application/ground (a) to be considered? Yes No
- 5.a. Is the appeal site within a conservation area? Yes No
- 5.b. Is the appeal site adjacent to a conservation area? Yes No

PART 3

- 6.a. Does the notice relate to building, engineering, mining or other operations? Yes No
- 6.b. Is the area of the alleged breach different from the above? Yes No
- 6.c. Does the alleged breach create any floor space? Yes No
- If YES, please state the amount of gross floor space created, in square metres. 34 sq metre(s)

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

- 7.a. the disposal of refuse or waste materials? Yes No
- 7.b. the deposit of materials remaining after mineral extraction? Yes No
- 7.c. the storage of minerals in the open? Yes No
8. If the enforcement notice relates to the erection of a building or buildings, is it accepted that their use is for purposes of agriculture on land used for agricultural purposes (not necessarily an agricultural unit as defined in the Agriculture Act (1947))? Yes No
9. Does the enforcement notice relate to the erection/change of use of a building which is a single private dwellinghouse, as defined in Regulation 2(1) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012? Yes No

PART 4

10. Has the local planning authority made a Local Development Order under sections 61A to 61C of the Town and Country Planning Act 1990 (as inserted by section 40 of the Planning and Compulsory Purchase Act 2004) in relation to the application site? Yes No
11. Has any planning permission been granted previously in respect of the development? Yes No
12. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No
13. Has a planning contravention notice been served? Yes No
- If YES, please send a copy of the Planning Contravention Notice and the reply
A copy of the PCN and the reply:
 [see 'Questionnaire Documents' section](#)
- 14.a. the appeal site is within 67 METRES OF A TRUNK ROAD? Yes No
- 14.b. the appeal site is CROWN LAND (as defined in s293 of the Act)? Yes No
- 14.c. a STOP NOTICE has been served in addition to the enforcement notice? Yes No
- 14.d. the appeal site is in or adjacent to or likely to affect a SSSI? Yes No
- 14.e. any protected species are likely to be affected by the alleged development? Yes No
- 14.f. the appeal site is in a Green Belt or AONB? Yes No
- If YES, please state which one (name).

West Midlands Green Belt

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

PART 5

15. Please provide a plan of any public rights of way affected by the site.

[see 'Questionnaire Documents' section](#)

16.a. Is the appeal site subject to an ARTICLE 4 Direction?

Yes No

17. Have any development rights been restricted by means of a planning condition?

Yes No

18. Does the development relate to operational development for a disabled person, as defined by s29 of the National Assistance Act 1948?

Yes No

19. Will any consultation be carried out on the possibility of planning permission being granted if the appeal is confirmed as valid?

Yes No

Environmental Impact Assessment - Schedule 1

20.a. Is the alleged development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?

Yes No

Environmental Impact Assessment - Schedule 2

20.b.i. Is the development Schedule 2 development as described in Column 1, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011?

Yes No

Environmental Impact Assessment - Environmental Statement (ES)

20.e. Has the appellant supplied an environmental statement?

Yes No

PART 6

21.a. a copy of the letter with which you notified people about the appeal.

[see 'Questionnaire Documents' section](#)

21.b. a list of the people you notified and the deadline you gave for their comments to be sent to us.

[see 'Questionnaire Documents' section](#)

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

15/04/2024

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

see 'Questionnaire Documents' section

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

Policies/Planning Guidance

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

List of policies

Core policy 1 and GB1

see 'Questionnaire Documents' section

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

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

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

List of supplementary planning documents

Green Belt and Open Countryside SPD

see 'Questionnaire Documents' section

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

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

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

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

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

PART 7

23. A true copy of the Enforcement Notice

see 'Questionnaire Documents' section

24. The Enforcement Notice Plan (if applicable)

see 'Questionnaire Documents' section

25. A list of those served with the Notice

see 'Questionnaire Documents' section

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

Yes

No



LPA Details

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

LPA's reference

22/00350/BOC

Completed by

Mark Bray

On behalf of

South Staffordshire District Council

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

Name

Salindra Shakespeare

Phone no (including dialling code)

01902696274

Email

Appeals@sstaffs.gov.uk

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

Appeal Reference	APP/C3430/C/24/3336376
Appeal By	MR STUART MALONEY
Site Address	1 Broomhall Cottages Horsebrook Farm Lane Brewood STAFFORD ST19 9LD

The documents listed below were uploaded with this form:

- Relates to Section: PART 4
 Document Description: 13. A copy of the Planning Contravention Notice (PCN) and the reply.
 File name: 9 Completed PCN.pdf
- Relates to Section: PART 5
 Document Description: 15. A plan of any public rights of way affected by the site.
 File name: 8 PROW Map.pdf
- Relates to Section: PART 6
 Document Description: 21.a. A copy of the letter with which you notified people about the appeal.
 File name: 7 Appeal notice.pdf
- Relates to Section: PART 6
 Document Description: 21.b. A list of the people you notified and the deadline you gave for their comments to be sent to us.
 File name: 6 LOIP - Brewood and Coven.pdf
- Relates to Section: PART 6
 Document Description: 21.c. the planning officer's report to committee or delegated report and any other relevant document/minutes.
 File name: 4 Officer report.pdf
- Relates to Section: PART 6
 Document Description: 22.a. Extracts from any statutory development plan policy including the front page, title and date of approval/adoption and status.
 File name: 5a Policies.pdf
 File name: 5 Core strategy front page.pdf
- Relates to Section: PART 6
 Document Description: 22.d. Extracts from any supplementary planning document that you consider necessary, together with the date of its adoption. In the case of emerging documents, please state what stage they have reached.
 File name: 5b Green Belt and Open Countryside SPD.pdf
- Relates to Section: PART 7
 Document Description: 23. A true copy of the Enforcement Notice.
 File name: 2 Enforcement Notice.pdf
- Relates to Section: PART 7
 Document Description: 24. The Enforcement Notice Plan.
 File name: 10 Enforcement Notice Plan.pdf
- Relates to Section: PART 7

Document Description: 25. A list of those served with the Notice.
File name: 3 List served with notice.pdf

Completed by

Not Set

Date

15/03/2024 09:01:03

LPA

South Staffordshire District Council

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

Operational Development

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 (b) 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**

1, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Staffordshire ST19 9LD, shown edged red on the plan attached to this notice (“the Land”).

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

Breach of Condition 5 of Planning Permission Reference 18/00338/FUL for the demolition of an existing semi-detached dwelling and erection of detached dwelling as follows:

Condition 5

The existing dwellinghouse on site shall be demolished concurrently with the development. All material resulting from the demolition shall be reused in the proposed development or removed from the site and lawfully disposed of.

Reason: The site is within the Green Belt within which, in accordance with the planning policies in the adopted core strategy, there is a presumption against inappropriate development.

There has been a failure to comply with Condition 5 in that the existing semi-detached dwelling house at 1, Broomhall Cottages has not been demolished and remains in situ.

4. **REASONS FOR ISSUING THIS NOTICE**

The breach of Condition 5 occurred less than ten years ago and is not immune from enforcement action.

On 19th July 2018 planning permission (“the Permission”) was granted for the erection of a detached dwelling with a condition to demolish an existing dwelling (“the Dwelling”); in order to safeguard visual amenity and to comply with planning policy relating to part 13 of the National Planning Policy Framework and policies GB1 of the South Staffordshire Core Strategy adopted 2012.

Development commenced in accordance with the Permission however the existing dwelling was not demolished concurrently as per the condition, (condition 5 of the Permission). In early 2020 the development relating to the Permission was substantially completed however the Dwelling remained in situ.

On 17th August 2020, an application as received to remove condition 5, (application reference 20/00706/VAR). On 6th July 2021 the application to remove the condition was refused permission for the following reasons:

1. *The proposed would represent inappropriate development in the Green Belt. Whilst the applicant has advanced certain other considerations in support of the application namely the permitted development fallback position and the benefits to the historic environment from retaining No 1, the Council does not consider that these other considerations amount to the very special circumstances required to outweigh the identified harm to the Green Belt both in terms of inappropriateness and the harm to openness. Consequently, the proposal would conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and the National Planning Policy Framework (the Framework)*

2. *Proactive statement*

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2018. However, for the reasons set out in the officer report and reason for refusal, the proposal conflicts with both national and local Green Belt Policy and has therefore been refused.

On 27th October 2023, a Council officer conducted a site visit and found that the Dwelling remained in situ in breach of condition 5 of the Permission.

For the reasons outlined at 1 & 2 above, the Dwelling remains in conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and paragraphs 147 and 149 of the Framework.

5. WHAT YOU ARE REQUIRED TO DO

You Must

Demolish the dwellinghouse outlined in red on this notice and remove all material resulting from that demolition from the Land and lawfully disposed of it.

6. TIME FOR COMPLIANCE

Four months from the date the notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 5th January 2024, unless an appeal is made against it beforehand.

Dated: 1st December 2023



Signed:

Annette Roberts

Corporate Director Infrastructure and Business Growth

South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall,
South Staffordshire WV8 1PX

Nominated Officer:

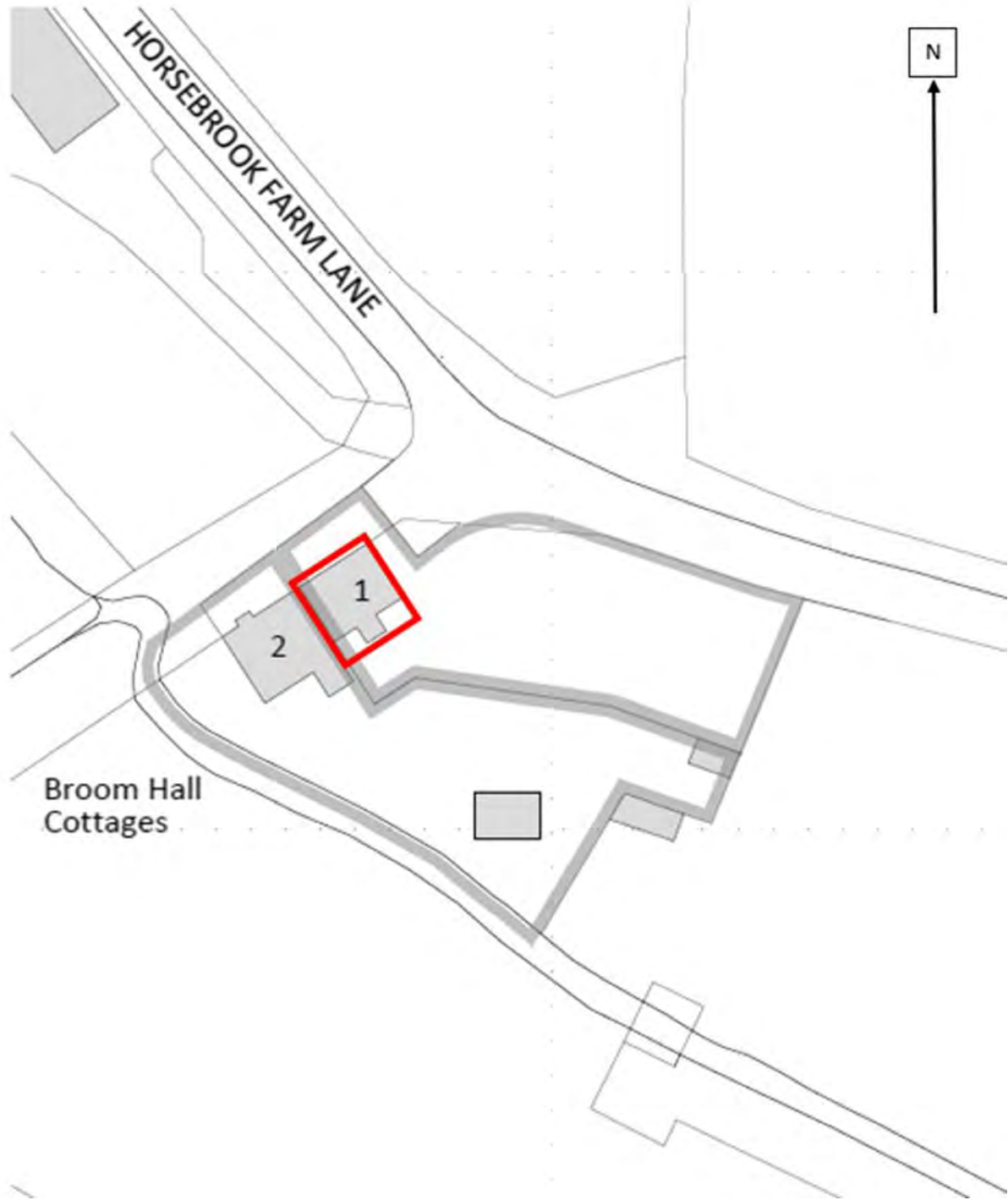
Mark Bray,

Planning Enforcement Consultant

South Staffordshire District Council, Council Offices, Wolverhampton Road, Codsall,
South Staffordshire WV8 1PX

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

1, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Staffordshire ST19 9LD



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to land and building at 1, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Staffordshire ST19 9LD.

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 5th January 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 5th January 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 5th January 2024 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Planning Enforcement Contact Officer:

Mark Bray
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,

**South Staffordshire,
WV8 1PX
Tel: 01902 696900**

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

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. STUART IAN MALONEY
2, Broomhall Cottages,
Horsebrook Farm Lane,
Brewood,
ST19 9LD

2. BARCLAYS MORTGAGE LOAN SERVICES
PO Box 8575,
Leicester
LE18 9AW

ANNEX

YOUR RIGHT OF APPEAL.

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Relevant Extracts from the Town & Country Planning Act 1990

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

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

Notes

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

Extent

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

[171B. — Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

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

Notes

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

Extent

Pt VII s. 171B: England, Wales

[171BA Time limits in cases involving concealment

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

Notes

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

Extent

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

[171BB Planning enforcement orders: procedure

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

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

Notes

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

Extent

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

[171BC Making a planning enforcement order

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

Town and Country Planning Act 1990 Page 207

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

Notes

Extent

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

[Planning contravention notices] 1

[172. — Issue of enforcement notice.

- (1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—
 - (a) That there has been a breach of planning control; and
 - (b) That it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—

Town and Country Planning Act 1990 Page 213

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

Notes

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

Commencement

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

Extent

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

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

- (1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—
 - (a) Explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,
 - (b) Giving the person one of the following assurances—
 - i. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
 - ii. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

- (c) Explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
 - (d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

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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.]¹

Notes

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

Extent

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

[173. — Contents and effect of notice.

- (1) An enforcement notice shall state—
 - (a) The matters which appear to the local planning authority to constitute the breach of planning control; and
 - (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1) (a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
 - (a) Remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

- (b) Remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
- (a) The alteration or removal of any buildings or works;
 - (b) The carrying out of any building or other operations;
 - (c) Any activity on the land not to be carried on except to the extent specified in the notice;
- Or
- (d) The contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

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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 require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—

- (a) An enforcement notice requires the construction of a replacement building; and
- (b) All the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.]¹

Notes

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

Commencement

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

Town and Country Planning Act 1990 Page 216

Extent

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

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

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

Notes

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

Extent

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

174. — Appeal against enforcement notice.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) [An appeal may be brought on any of the following grounds—
 - (a) That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) That those matters have not occurred;

- (c) That those matters (if they occurred) do not constitute a breach of planning control;
- (d) That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) That copies of the enforcement notice were not served as required by section 172;

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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.]²

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

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

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

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

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

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

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

Notes

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

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

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

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

Commencement

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

Extent

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

P Partially In Force

175. — Appeals: supplementary provisions.

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

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

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

- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

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(7) [...]³

Notes

- 1** Added by Planning Act 2008 c. 29 Sch.10 para.5 (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j)); not yet in force otherwise)
- 2** Words added by Planning and Compensation Act 1991 c. 34 Pt I 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

Pt VII s. 175: August 24, 1990 except for the provision specified in 1990 c.11 Sch.4 para.7; January 2, 1992 for purposes specified in SI 1991/2698 art 3; not yet in force otherwise (1990 c. 8 Pt XV s. 337(2); 1990 c. 11 Sch. 4 para. 7; SI 1991/2698 art. 3)

Extent

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

P Partially In Force

176. — General provisions relating to determination of appeals.

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

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

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

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

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

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

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

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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.]⁵

[(5A) Where—

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

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Notes

1 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(a) (January 2, 1992)

2 S.77(1)(c), (1A) and (1B) substituted for s.77(1)(c) by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(b) (July 27, 1992 subject to transitional provisions specified in SI 1992/1630 art.3)

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

4 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(2) (January 2, 1992)

5 Words and s.177(5)(a)-(b) substituted for words by Localism Act 2011 c. 20 Pt 6 c.5 s.123(6) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

6 Added by Planning and Compensation Act 1991 c. 34 Pt I s.6(3) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

Commencement

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

Extent

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

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

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

1. THIS IS IMPORTANT

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

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk/) (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal> (<https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>).

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.



Authorisation for Enforcement Action

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

ENFORCEMENT REFERENCE: 22/00350/BOC

ADDRESS: 1, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Staffordshire ST19 9LD, shown edged red on the plan attached to the enforcement notice (“the Land”).

BREACH OF PLANNING CONTROL:

Breach of Condition 5 of Planning Permission Reference 18/00338/FUL for the demolition of an existing semi-detached dwelling and erection of detached dwelling as follows:

Condition 5

The existing dwellinghouse on site shall be demolished concurrently with the development. All material resulting from the demolition shall be reused in the proposed development or removed from the site and lawfully disposed of.

Reason: The site is within the Green Belt within which, in accordance with the planning policies in the adopted core strategy, there is a presumption against inappropriate development.

There has been a failure to comply with Condition 5 in that the existing semi-detached dwelling house at 1, Broomhall Cottages has not been demolished and remains in situ.

POLICY CONSIDERATIONS:

National Planning Policy Framework

13 – Protecting Green Belt Land

Adopted Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Adopted Local Guidance

Green Belt and Open Countryside Supplementary Planning Document (SPD)

RELEVANT PLANNING HISTORY:

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

18/00338/FUL - Demolition of existing semi-detached dwelling and erection of detached dwelling.

Permission granted 19th July 2018.

19/00102/LUP - New carport, parking area and access off an unclassified road. Permitted development 3rd April 2019.

20/00706/VAR - Vary Condition 2 (approved plans) and Condition 5 of Approval 18/00338/FUL (demolition of part of dwelling) to retain the original part of the building(s). Permission refused on 6th July 2021.

CASE SUMMARY:

The breach of Condition 5 occurred less than ten years ago and is not immune from enforcement action.

On 19th July 2018 planning permission (“the Permission”) was granted for the erection of a detached dwelling with a condition to demolish an existing dwelling (“the Dwelling”); in order to safeguard visual amenity and to comply with planning policy relating to part 13 of the National Planning Policy Framework and policies GB1 of the South Staffordshire Core Strategy adopted 2012.

Development commenced in accordance with the Permission however the existing dwelling was not demolished concurrently as per the condition, (condition 5 of the Permission). In early 2020 the development relating to the Permission was substantially completed however the Dwelling remained in situ.

On 17th August 2020, an application as received to remove condition 5, (application reference 20/00706/VAR). On 6th July 2021 the application to remove the condition was refused permission for the following reasons:

- 1. The proposed would represent inappropriate development in the Green Belt. Whilst the applicant has advanced certain other considerations in support of the application namely the permitted development fallback position and the benefits to the historic environment from retaining No 1, the Council does not consider that these other considerations amount to the very special circumstances required to outweigh the identified harm to the Green Belt both in terms of inappropriateness and the harm to openness. Consequently, the proposal would conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and the National Planning Policy Framework (the Framework).*
- 2. Proactive statement*
In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2018. However, for the reasons set out in the officer report and reason for refusal, the proposal conflicts with both national and local Green Belt Policy and has therefore been refused.

In September 2021 the owner of the Dwelling sold the property.

On 5th February 2023, the new owner of the Dwelling stated, by way of a Planning Contravention Notice, that he bought the property with the full knowledge of the requirement to demolish it by way of

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

condition 5 of the Permission. He added that he had intended to appeal the decision of the Council to refuse permission to remove condition 5, however no such appeal has been submitted.

On 8th February 2023, an e-mail was sent to the new owner of the Dwelling informing him that the Dwelling must be demolished or enforcement action would be taken without further warning. No response was received.

On 27th October 2023, a Council officer conducted a site visit and found that the Dwelling remained in situ in breach of condition 5 of the Permission.

As per the findings of the refused application to remove condition 5, (application reference 20/00706/VAR), the main issues in this case are:

- Whether the Dwelling is inappropriate development in the Green Belt;
- The effect of the development on the openness of the Green Belt and the purposes of including land in the Green Belt;
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations so as to amount to very special circumstances necessary to justify the development.

Whether inappropriate development in the Green Belt

Paragraph 149 of the National Planning Policy Framework (the Framework) confirms that local planning authorities should regard the construction of new buildings as inappropriate development in the Green Belt unless they fall under certain exceptions. Included in this list, and not therefore to be regarded as inappropriate development is: 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'.

Policy GB1 of the CS closely follows paragraph 149 (d) regarding the replacement of existing buildings in the Green Belt and is therefore broadly consistent with the Framework in this regard. Additional guidance on replacement buildings is provided in the Council's Green Belt and Open Countryside Supplementary Planning Document (SPD). It defines 'materially larger' as an increase of between 10-20% in floor area over the existing building.

The new dwelling approved in 2018 was to replace the existing cottage which is subject to this current application. Whilst it was considered 'materially larger' than the building it was to replace, the 2018 application was approved on the basis that extensions which could be constructed under permitted development rights would be more harmful to openness than the proposed new dwelling. Given that the Dwelling has now been retained, it represents inappropriate development in the Green Belt (i.e. the dwelling which was been constructed would no longer be a replacement building).

Paragraph 149 (c) of the Framework states should be regarded as inappropriate development in the Green Belt, unless the extension/alterations do not result in disproportionate additions over and above the size of the original building.

The Dwelling was previously extended with first floor side and single storey rear additions added in 2006. When combined with these previous additions, the incorporation of the existing two storey attached building into No 2, including alterations knocking through the two properties, would clearly constitute disproportionate additions over and above the size of the original building. As such, it would represent inappropriate development in the Green Belt.

Paragraph 147 of the Framework states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.

One of the essential characteristics of Green Belts are their openness. As set out on the application of **Samuel Smith Old Brewery v North Yorkshire CC [2020] UKSC 3** when accessing impact on openness it is possible to take into account both the spatial and visual impact of a development.

The 2018 application was only approved on the basis that the existing cottage was demolished, ensuring that the scheme overall, did not harm openness. By retaining the existing cottage, in combination with the existing two-storey house which has recently been constructed, the overall bulk, massing and spread of buildings across the site would have a harmful spatial impact on the openness of the Green Belt.

Turning to the visual impact, as the two storey building to be retained is set back from the road and follows the form and ridgeline of No 2, the visual impact on Horsebrook Farm Lane and the surrounding open countryside would be limited. However, when the cumulative impact of the replacement dwelling as well as the retention of this dwelling, the visual impact is significant.

The retention of the Dwelling therefore has a harmful visual and spatial impact on the openness of the Green Belt.

In the application to remove condition 5 the applicant advance a permitted development fallback position, together with an argument based on the heritage value of retaining the existing cottage, however on balance neither of these considerations were found to amount to 'very special circumstances'.

Consequently, the retention of the Dwelling remains in conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and paragraphs 147 and 149 of the Framework.

EXPEDIENCY OF ENFORCEMENT ACTION:

Planning Enforcement action is a discretionary power which may be exercised where there has been a breach of planning control which affects public amenity or otherwise affects land or buildings meriting protection in the public interest. This case relates to the requirement to remove an existing dwelling house to mitigate the harm caused by the erection of a new dwelling house in the Green Belt.

Whilst the recipient of the Permission and owner of the new dwelling house constructed in accordance with that permission did not remove it concurrently with the development as required by the condition, the new owner purchased it (together with an attached dwelling), in the knowledge that it was required to be demolished in accordance with condition 5 of the Permission. The new owner has been contacted and requested to comply with the condition and demolish the Dwelling however he has refused to do so and the Dwelling remains in situ. This has left the Council with little alternative but to proceed with formal enforcement action against the new landowner by way of an Enforcement Notice to secure the removal of the Dwelling and to remedy the ongoing harm caused to the Green Belt .

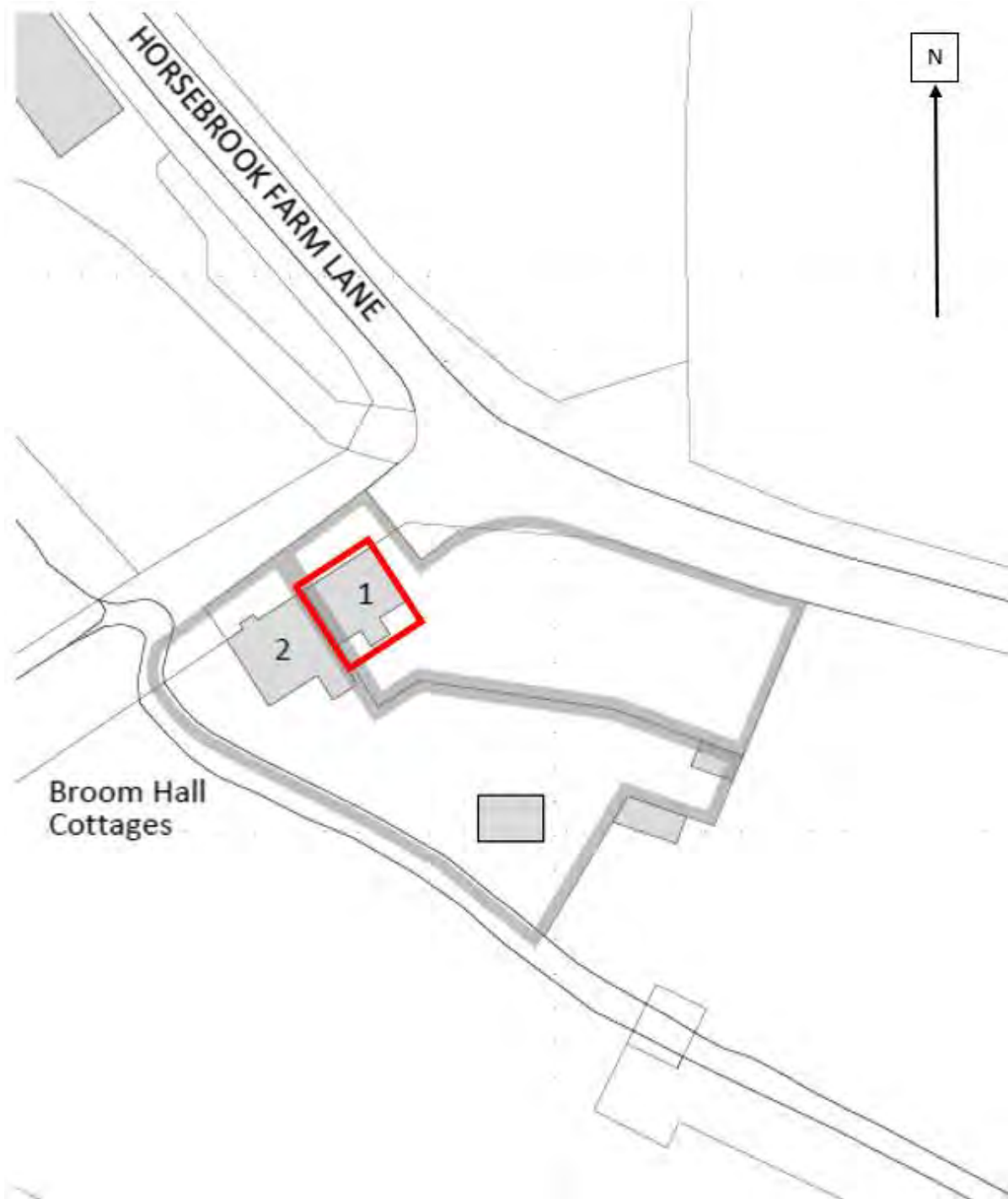
NOTICES TO BE SERVED UPON:

STUART IAN MALONEY 2, Broomhall Cottages, Horsebrook Farm Lane, Brewwood, ST19 9LD

TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

1, Broomhall Cottages, Horsebrook Farm Lane, Brewwood, Staffordshire ST19 9LD



TO BE READ IN CONJUNCTION WITH THE ATTACHED NOTICE

CASE OFFICER DECLARATION:

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

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

CASE OFFICER: Mark Bray
POSITION: Planning Enforcement Consultant
DATE: 29th October 2023

Signed:



LINE MANAGER COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

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

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

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

NAME: Catherine Gutteridge
POSITION: Planning Enforcement Team Manager
DATE: 07/11/2023

Signed:



DEVELOPMENT MANAGEMENT COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

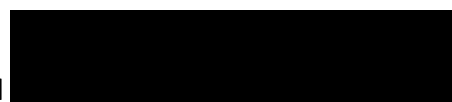
I hereby declare that I have reviewed the case and support the Officer declarations above.

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

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

NAME: Matthew Thomas
POSITION: Assistant Team Manager
DATE: 20/11/2023

Signed



LEGAL SERVICES COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

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

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

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

NAME: Pardip Sharma
POSITION: Solicitor
DATE: 27/11/23

Signed: By E-mail 27/3/23

AUTHORISING OFFICER COMMENTS, INSERTIONS OR REVISIONS:

DECLARATION:

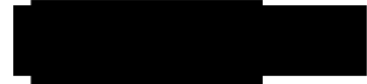
I hereby declare that I have reviewed the case and support the Officer declarations above.

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

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

Annette Roberts

Corporate Director Infrastructure and Business Growth



DATE: 27/11/23

Signed: _____



South Staffordshire Council

Core Strategy

December 2012



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



A Local Plan for
South Staffordshire

Core Strategy Development Plan Document

Adopted 11th December 2012

South Staffordshire Council

Core Policy 1 – The Spatial Strategy for South Staffordshire

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

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

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

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

Main Service Villages

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

Local Service Villages

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

Small Service Villages

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

Other Villages and Hamlets

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

Outside the Service Villages

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

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

The Green Belt and Open Countryside

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

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

Delivering the Strategy

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

Explanation

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

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.*

Green Belt and Open Countryside Supplementary Planning Document (SPD)



**South
Staffordshire
Local Plan**

April 2014

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1. Introduction

What is the purpose of the SPD?

- 1.1 This Supplementary Planning Document (SPD) seeks to provide greater detail on the issues and implications of proposals for various development types on sites within the Green Belt and Open Countryside in South Staffordshire.
- 1.2 Once adopted, the SPD will form part of the South Staffordshire Local Plan where the SPD is referenced in the policies.
- 1.3 This document is in addition to the policies contained in the Local Plan and is not the starting point for decision making. This document provides guidance as to how the policies will be interpreted and is not formal planning policy in its own right.
- 1.4 The SPD is divided into sections and is directly linked to policies GB1 and OC1 of the adopted Core Strategy, where the SPD is specifically mentioned.
- 1.5 All proposals for development in the Green Belt shall be compliant with the guidance contained in the Village Design Guide SPD¹. In many circumstances, good design principles can contribute to the acceptability of potential impact.
- 1.6 Please note that this SPD and the guidance contained within it applies to developments where planning permission is required and does not affect your existing permitted development (PD) rights if you have them. The PD fallback position will be taken into account when assessing proposals.
- 1.7 The SPD covers three elements:
 - Replacement of existing buildings
 - Extension or alteration of existing buildings
 - Limited infilling



The Green Belt

- 1.8 There are 5 main purposes of the Green Belt, which are upheld by South Staffordshire Council through planning new development in the most appropriate locations and through the careful management of all developments.
- 1.9 The purposes of the Green Belt are as follows:
 - To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

¹ The VDG is being updated and will be renamed South Staffordshire Design Guide.

- 1.10 In the Council's role in protecting the Green Belt, policies are contained in the Core Strategy which are used in the determination of planning applications and will be used when allocating sites for future developments. Around 80% of the district is made up of Green Belt land, which surrounds the majority of settlements in the district and is present in all 5 localities. Due to the restrictive nature of Green Belt policy at a national and a local level, the Council will seek to protect the Green Belt from inappropriate development and to maintain the character and openness of the Green Belt.
- 1.11 This document seeks to clarify policy set out in policy GB1 and how this will be used in decision making in Development Management.
- 1.12 It is important to note that Core Policy 1: The Spatial Strategy of the Core Strategy applies to the Green Belt, which encourages development to be in sustainable locations. See the Core Strategy for further details.
- 1.13 Where the Core Strategy is silent on Green Belt issues, the Council will defer to the NPPF which is a material planning consideration. A recent appeal decision² has confirmed that the supporting text to GB1 makes it clear that in order to be acceptable, any proposals must comply with the provisions of the NPPF.

The Open Countryside beyond the West Midlands Green Belt

- 1.14 The Open Countryside is located in the north west of the district and makes up a proportion of localities 1 and 2. 80% of the District is Green Belt, with the remaining 20% being Open Countryside and land within village envelopes. The main settlements surrounded by Open Countryside are:



- Penkridge (north)
- Dunston
- Coppenhall
- Acton Trussell
- Wheaton Aston
- Weston Under Lizard
- Great Chatwell
- Brineton
- Blymhill

- 1.15 It is important to note that National Policy 1: The Presumption in Favour of Sustainable Development of the Core Strategy applies to the Open Countryside,

² APP/C3430/A/13/2196656

namely that the 'presumption in favour of sustainable development' is applicable. However, the Open Countryside of South Staffordshire has a traditional agricultural landscape, with this being the main land use. Due to the important character of this landscape, the Council will retain this character by ensuring that development remains sympathetic to its setting and therefore development is restricted. This is reflected in policy OC1 of the adopted Core Strategy.

Using this SPD

- 1.16 The following principles are relevant in the application of guidance provided in this SPD
- 1.17 All applications for development in the Green Belt will be assessed using all relevant policies in the Development Plan, and Green Belt policy will not be used in isolation. Preference will be given to those sites in sustainable village locations. It is recommended that applicants request pre-application advice prior to submitting an application to ascertain whether or not an application is likely to be acceptable.
- 1.18 The principle of applying a range of percentage increases for extensions, alterations or replacements dwellings is to allow for flexibility in the application of the policy. For some proposals, a 20% (10%) increase may be considered disproportionate; whereas a 40% (20%) increase on a different building, in a different location may be acceptable. All proposals will therefore be considered on the individual merits of the case.
- 1.19 The onus is on the applicant to provide evidence of very special circumstances and each proposal is taken on its merits.
- 1.20 Where reference is made to floor area, this will be calculated on the basis of external floor area.
- 1.21 The Council expects good design to be an integral part of any proposal and this is supported by the Village Design Guide.

2. The Green Belt Policy

Core Strategy 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 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 land 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.*

3. Replacement of existing buildings

Use

- 3.1 The replacement of an existing building is an acceptable form of development within the Green Belt as stated in policy GB1; this is also considered to be acceptable in terms of the NPPF (providing it is in the same use). Should an application be submitted for a replacement building in a different use, this would constitute inappropriate development – see para 1.13. In such cases the applicant will be required to demonstrate ‘very special circumstances’ in order to outweigh the harm to the Green Belt.

Size

- 3.2 The Council’s adopted policy (GB1) on replacement buildings states that the replacement must not be materially larger than the building it replaces. In order to judge this a range of floor area increases will be used as guidance, this range is between 10-20%. This will be the basis for making a judgment on planning applications put before the Council, however all applications will be judged on their merits on a case by case basis. We will require complete floor plans and elevations (of both existing and proposed), because we will, as part of the application process, calculate floor areas and in some cases volume. If the proposal is for a building that is considered to be materially larger it will be contrary to policy GB1 and is likely to be unsuccessful. However, intelligent architectural design can sometimes increase usable floor area, whilst reducing bulk and impact of the building on the openness of the Green Belt. For example this can include subterranean levels and reduced building height.

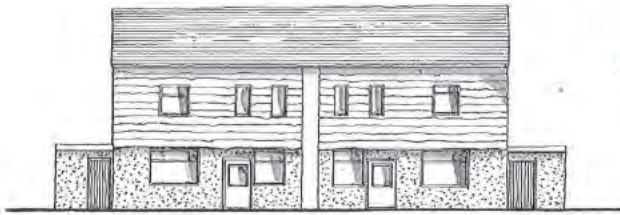
Positioning

- 3.3 In some instances replacement buildings are desired elsewhere on a site. Sometimes the replacement of buildings can have a greater or lesser impact dependent on their location on a site. In these cases the Council will assess the existing site and the impact the existing building has on the site. If the new position would be incongruous, and/or more open to view, or reduce the openness of the Green Belt, the proposal is less likely to be acceptable. However, if it is considered to improve the openness, it is likely to weigh in favour of the application.

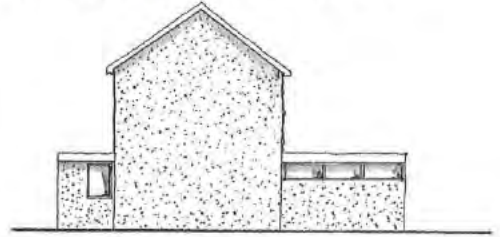
Other buildings on site

- 3.4 Generally off-setting garden or ancillary buildings would not be an acceptable approach to adding bulk, massing, floor area or volume to a new building. Ancillary buildings are usually low and sometimes constructed from more natural materials such as timber which blend into the landscape. Some ancillary buildings have been softened over time with landscaping and have a minimal impact on openness. Therefore these types of buildings are unlikely to be acceptable to adding significantly to a replacement building. The opportunity to off-set ancillary buildings in lieu of a larger replacement building will be dealt with on a case by case basis. If off-setting is considered to be an acceptable approach by the Council, removal of Permitted Development rights may be considered.

Acceptable Replacement Dwelling – Not Materially Larger



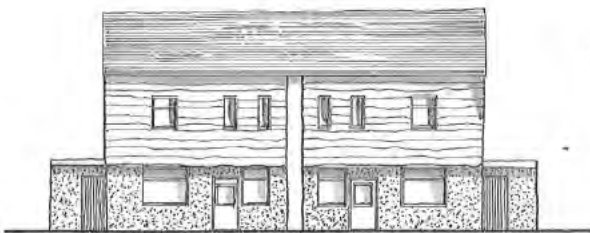
Existing



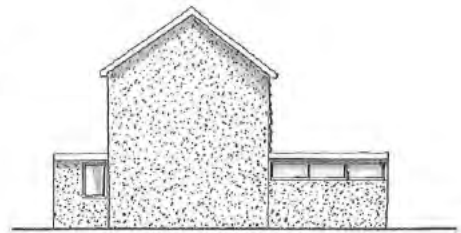
Proposed



Unacceptable Replacement Dwelling – Materially Larger



Existing

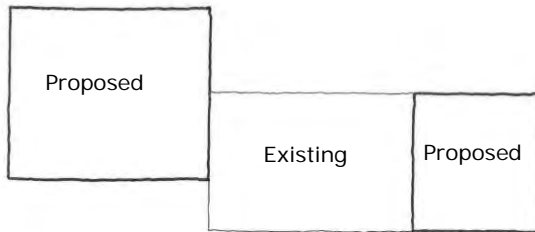


Proposed



4. Alterations or extensions to existing buildings

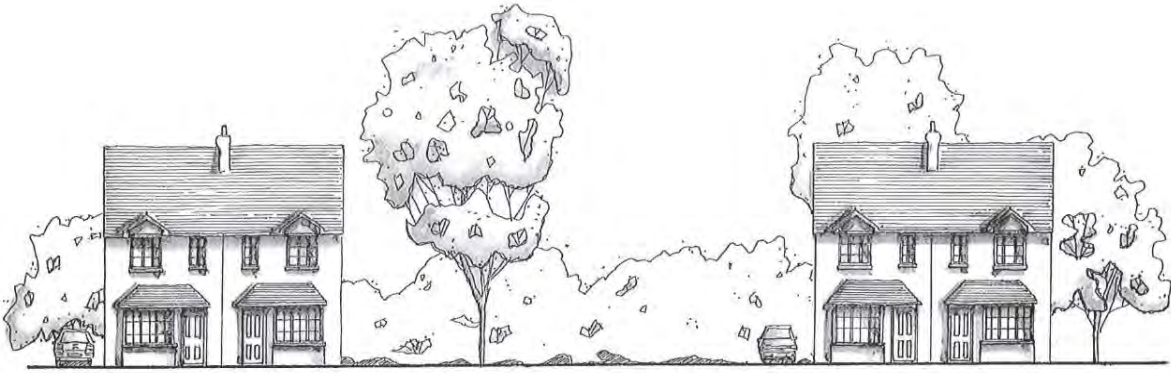
- 4.1 Extensions and alterations to buildings are not considered in National or Local planning policy to constitute inappropriate development, providing that any extension or alteration is not disproportionate and therefore by definition harmful to the openness of the Green Belt. This element of policy guidance was historically specific to dwellings. However following the publication of the NPPF and the requirement for Local Plan policies to conform to national guidance, the reference to buildings was introduced into policy GB1. This approach will therefore be reflected in the guidance to be in accordance with Local and National planning policy.
- 4.2 In relation to dwellings, the Council has historically applied a 30% limit on extensions to dwellings in the Green Belt; this related to an increase in 30% of footprint over the original footprint. [NB. Original footprint is that which existed on 01 July 1948 or as originally built if building constructed after that date.
- 4.3 For this SPD a percentage range is considered to be the most appropriate approach; this range is between 20-40%. A range is proposed to recognise that a 'one size fits all' approach is not always suitable.
- 4.4 Anything above the 20-40% range will be likely to be disproportionate simply because it would not be in proportion with the host building and therefore would be likely to have an impact on openness. This range will be applied to floor area, rather than footprint which had been used historically (for dwellings). The reason for this is that often single storey additions can have a limited impact on the openness of the Green Belt, and conversely multiple storey or bulky additions can have a significant detrimental impact on openness, whilst remaining within a percentage limit.
- 4.5 All cases will be dealt with on an individual basis and the Council will make a judgement, as part of the decision making process, as to whether the extension is disproportionate or not. If the extensions or alterations are likely to appear disproportionate the application will be unacceptable in Green Belt terms.
- 4.6 If, however, an applicant or agent considers that additions deemed disproportionate by the Council are absolutely necessary for the function of the building, or have a limited effect on the openness of the Green Belt, or will bring community or economic benefit, then a case to demonstrate 'Very Special Circumstances' will be required in the form of a supporting statement. This element will then be weighed up, including the quality of the design, in the planning balance and will form part of the decision making process.
- 4.7 If the 'Very Special Circumstances' are considered to outweigh the harm to the openness of the Green Belt and the application is acceptable, it will be determined by the Regulatory Committee which is not bound to follow the officer recommendation.



Disproportionate/Proportionate Extensions

5. Limited Infilling

- 5.1 Limited infilling does not constitute inappropriate development in Green Belt terms and was not previously defined in the 1996 Local Plan. However in the Core Strategy it is defined in policy GB1 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.
- 5.2 Limited infilling will be considered to be acceptable where it would not harm the character or the openness of the Green Belt. For example, a strong ribbon of development with a gap suitable for an additional building would not necessarily be harmful to the openness of the Green Belt, as it would strengthen the ribbon. This is providing the building is no higher than, and is sympathetic to the surrounding buildings. The design of the building would need to be suitable and the development would need to be acceptable in terms of other appropriate policies within the Core Strategy.
- 5.3 An example of limited infilling that is also likely to be acceptable is within a tight cluster of buildings, where the additional building is unlikely to impact on the openness of the area, due to its position within the cluster.
- 5.4 In both examples, a building at the end of a ribbon, or the edge of a cluster does not fall within the definition of limited infilling, and would therefore constitute inappropriate development and would therefore be unacceptable.
- 5.5 Where 'infilling' is considered to constitute 'appropriate development' in the Green Belt, as defined in Policy GB1 and the NPPF, it is important to remember that all relevant policies in the Development Plan for South Staffordshire need to be considered when making decisions on planning proposals. However, developments should be in sustainable locations in accordance with policy CP1 of the Local Plan.



Limited Infilling

6. The Open Countryside beyond the West Midlands Green Belt Policy

Core Strategy Policy OC1 – Development in the Open Countryside Beyond the West Midlands Green Belt

The Open Countryside beyond the South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map will be protected for its own sake, particularly for its landscapes, areas of ecological, historic, archaeological, agricultural and recreational value.

Development within the Open Countryside 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 appearance or character of the Open Countryside beyond the Green Belt; 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 extensions(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 appearance or character and local distinctiveness of the Open Countryside beyond the Green Belt.

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 appearance and character of the Open Countryside beyond the Green Belt.

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, and not lead to a major increase in the developed proportion of the site.*

7. Replacement of existing buildings

Use

- 7.1 The replacement of an existing building is an acceptable form of development within the Open Countryside, providing that 'it is not materially larger than the building it replaces', as stated in policy OC1. Should an application be for a replacement building in a different use, the judgment on suitability will be based on the social, environmental and economic implications of that use, having regard to Policy NP1 ('presumption in favour of sustainable development'), and additional paraphernalia resulting from that use. Whether or not the new use is likely to have a greater impact on the character of the landscape than the existing use is likely to be an important factor in the decision.

Size

- 7.2 The Council's adopted policy (OC1) on replacement buildings states that the replacement must not be materially larger than the building it replaces. In order to judge this a range of floor area increases will be used as guidance; this range is between 10-20%. This will be the basis for making a judgement on planning applications put before the Council. We will require complete floor plans and elevations (of both existing and proposed), because we will, as part of the application process, calculate floor areas and in some cases volume. If the proposal is for a building that is harmful to the character of the landscape it will be contrary to policy OC1 and is likely to be unsuccessful. However, intelligent architectural design can sometimes increase usable floor area whilst reducing bulk and impact of the building on the character of the landscape. For example, this can include subterranean levels and reduced building height.


Positioning

- 7.3 In some instances replacement buildings are desired elsewhere on a site. Sometimes the replacement of buildings can have a greater or lesser impact based on their location on a site. In these cases the Officer will assess the existing site and the impact the existing building has on the site. If the new position would be incongruous and/or more open to view, or have an impact on the character of the landscape, the proposal is less likely to be acceptable. However, if it is considered to improve the openness, it is likely to weigh in favour of the application.

Other buildings on site

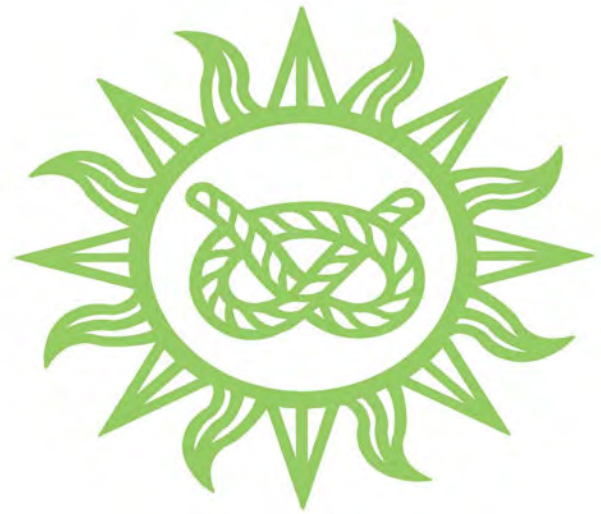
- 7.4 Generally, off-setting garden or ancillary buildings would not be an acceptable approach to adding bulk, massing, floor area or volume to a new building. Ancillary buildings are usually low and sometimes made from more natural materials such as timber which blend into the landscape. Some ancillary buildings have been softened over time with landscaping and have a minimal impact on the character of the area. Therefore these types of buildings are unlikely to be acceptable to adding significantly to a replacement building. The opportunity to off-set ancillary buildings in lieu of a larger replacement building will be dealt with on a case by case basis. If off-setting is considered to be an acceptable approach by the Officer, removal of Permitted Development rights may be considered.

8. Alterations or extensions to existing buildings

- 8.1 Extensions and alterations to buildings are not considered in local planning policy to be unacceptable within the Open Countryside. This is providing that any extension or alteration is not disproportionate to the original building.
- 8.2 The size of extension must be proportionate to the building and not adversely harm the intrinsic character of the Open Countryside.
- 8.3 For this SPD a percentage range is considered to be the most appropriate approach; this range is between 20-40%. A range is proposed to recognise that a 'one size fits all' approach is not always suitable.
- 8.4 Anything above the 20-40% range will be likely to be disproportionate, simply because it would not be in proportion with the host building and therefore would be likely to have an impact on the character of the landscape of the Open Countryside. This will be applied to floor area, rather than footprint which had been used historically (for dwellings). The reason for this is that often single storey additions can have a limited impact on the character of the area and conversely multiple storey or bulky additions can have a significant detrimental impact on character whilst remaining within a percentage limit.
- 
- 8.5 All cases will be dealt with on an individual basis and the Council will make a judgement as part of the decision making process as to whether the extension is disproportionate or not. If the extensions or alterations are likely to appear disproportionate, the application will be unacceptable in the Open Countryside as per policy OC1.
- 8.6 If however an applicant or agent considers that additions deemed disproportionate by the Council are absolutely necessary for the function of the building, or will bring community or economic benefit, then a case to justify the development will be required in the form of a supporting statement. This element will then be weighed up, including the quality of the design, in the planning balance and will form part of the decision making process.
- 8.7 If the justification put forward is considered to outweigh the harm to the character of the Open Countryside and the application is acceptable, it will be determined by the Regulatory Committee which is not bound to follow the officer recommendation.

9. Limited Infilling

- 9.1 Limited infilling is acceptable within the Open Countryside and was previously defined in the 1996 Local Plan. Limited infilling has been defined in policy OC1 of the Core Strategy 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 and not lead to a major increase in the developed proportion of the site.
- 9.2 Limited infilling will be considered to be acceptable where it would not harm the character of the Open Countryside. For example, a strong ribbon of development with a gap suitable for an additional building would not necessarily be harmful to the character of the Open Countryside or the landscape as it would strengthen the ribbon and the character of that area. This is providing the building is no higher than, and is sympathetic to the surrounding buildings. The design of the building would need to be suitable and the development would need to be acceptable in terms of other appropriate policies within the Core Strategy.
- 9.3 An example of limited infilling that is also likely to be acceptable is within a tight cluster of buildings, where the additional building is unlikely to impact on the openness of the area due to the position within the cluster.
- 9.4 In both examples, a building at the end of a ribbon, or the edge of a cluster does not fall within the definition of limited infilling, and would therefore be unacceptable.



The Local Plans Team

**Strategic Development and
Planning Services
South Staffordshire Council
Council Offices
Wolverhampton Road
Codsall
South Staffordshire
WV8 1PX**

Telephone: (01902) 696000
Email: localplans@sstaffs.gov.uk

**If you require this information in another
format e.g., in large print, Braille, audio or in
a language other than English, please contact
the Customer Services Team on 01902
696000**

List of Persons and Interested Parties

Appeal Ref: APP/C3430/C/24/3336376

Enforcement Ref: 22/00350/BOC

Appeal by: Mr Stuart Maloney

Site at: 1 Broomhall Cottages Horsebrook Farm Lane Brewood Stafford ST19 9LD

1 copy to the occupier

2 Broomhall Cottages Horsebrook Farm Lane Brewood Stafford ST19 9LD

Bellview Farm Horsebrook Farm Lane Brewood Stafford ST19 9LD

1 copy to the Clerk to Brewood and Coven Parish Council

Clerk To Brewood And Coven Parish Council, Council Rooms, 35 Stafford Street, Brewood, South, Staffordshire, ST19 9DX

Email: clerk@brewoodandcoven-pc.gov.uk

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

Councillor Meg Barrow

Email: m.barrow@sstaffs.gov.uk

Councillor, Dan Kinsey

Email: d.kinsey@sstaffs.gov.uk

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

Councillor Mark Evans

Email: m.evans@sstaffs.gov.uk

Councillor Bob Cope

Email: r.cope@sstaffs.gov.uk

1 copy to the following local member(s)

Councillor Diane Holmes

Email: d.holmes@sstaffs.gov.uk

Councillor Wendy Sutton

Email: w.sutton@sstaffs.gov.uk

Councillor Susan Szalapski

Email: s.szalapski@sstaffs.gov.uk



The Occupier/Others

Phone: (01902) 696274

Email: appeals@sstaffs.gov.uk

Date: 13 March 2024

TOWN AND COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 174

Appellant's name:	Mr Stuart Maloney
Site Address:	1 Broomhall Cottages Horsebrook Farm Lane Brewood Stafford ST19 9LD
Alleged breach:	Breach of Condition 5 of Planning Permission Reference 18/00338/FUL. There has been a failure to comply with Condition 5 in that the existing semi-detached dwelling house at 1 Broomhall Cottages has not been demolished and remains in situ.
Enforcement reference:	22/00350/BOC and 18/00338/FUL
Appeal reference:	APP/C3430/C/24/3336376
Appeal start date:	4 March 2024

I refer to the above details. An appeal has been made to the Secretary of State against an enforcement notice issued by South Staffordshire District Council on 1 December 2023.

The enforcement notice was issued for the following reasons:

The breach of Condition 5 occurred less than ten years ago and is not immune from enforcement action.

On 19th July 2018 planning permission ("the Permission") was granted for the erection of a detached dwelling with a condition to demolish an existing dwelling ("the Dwelling"); in order to safeguard visual amenity and to comply with planning policy relating to part 13 of the National Planning Policy Framework and policies GB1 of the South Staffordshire Core Strategy adopted 2012.

Development commenced in accordance with the Permission however the existing dwelling was not demolished concurrently as per the condition, (condition 5 of the Permission). In early 2020 the development relating to the Permission was substantially completed however the Dwelling remained in situ.

On 17th August 2020, an application as received to remove condition 5, (application reference 20/00706/VAR). On 6th July 2021 the application to remove the condition was refused permission for the following reasons:

1. The proposed would represent inappropriate development in the Green Belt. Whilst the applicant has advanced certain other considerations in support of the application namely the permitted development fallback position and the benefits to the historic environment from retaining No 1, the Council does not consider that these other considerations amount to the very special circumstances required to outweigh the identified harm to the Green Belt both in terms of inappropriateness and the harm to openness. Consequently, the proposal would conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and the National Planning Policy Framework (the Framework)

2. Proactive statement

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2018. However, for the reasons set out in the officer report and reason for refusal, the proposal conflicts with both national and local Green Belt Policy and has therefore been refused.

On 27th October 2023, a Council officer conducted a site visit and found that the Dwelling remained in situ in breach of condition 5 of the Permission.

For the reasons outlined at 1 and 2 above, the Dwelling remains in conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and paragraphs 147 and 149 of the Framework.

The enforcement notice requires the following steps to be taken:

Demolish the dwellinghouse outlined in red on this notice and remove all material resulting from that demolition from the Land and lawfully disposed of it.

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

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

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

The appeal will be determined on the basis of **written representations**. The procedure to be followed is set out in the Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002.

If you wish to make comments, you can do so online at [Planning Inspectorate - GOV.UK \(www.gov.uk\)](https://www.gov.uk/planning-appeals) **(Please note that from the 1 April 2024 the Planning Inspectorate will not be accepting emailed comments.)** If you do not have access to the internet, you can send your comments to:

Amy Booth
The Planning Inspectorate
Room 3B
Temple Quay House
2 The Square
Bristol
BS1 6PN

All representations must be received by 15 April 2024. Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference.**

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

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

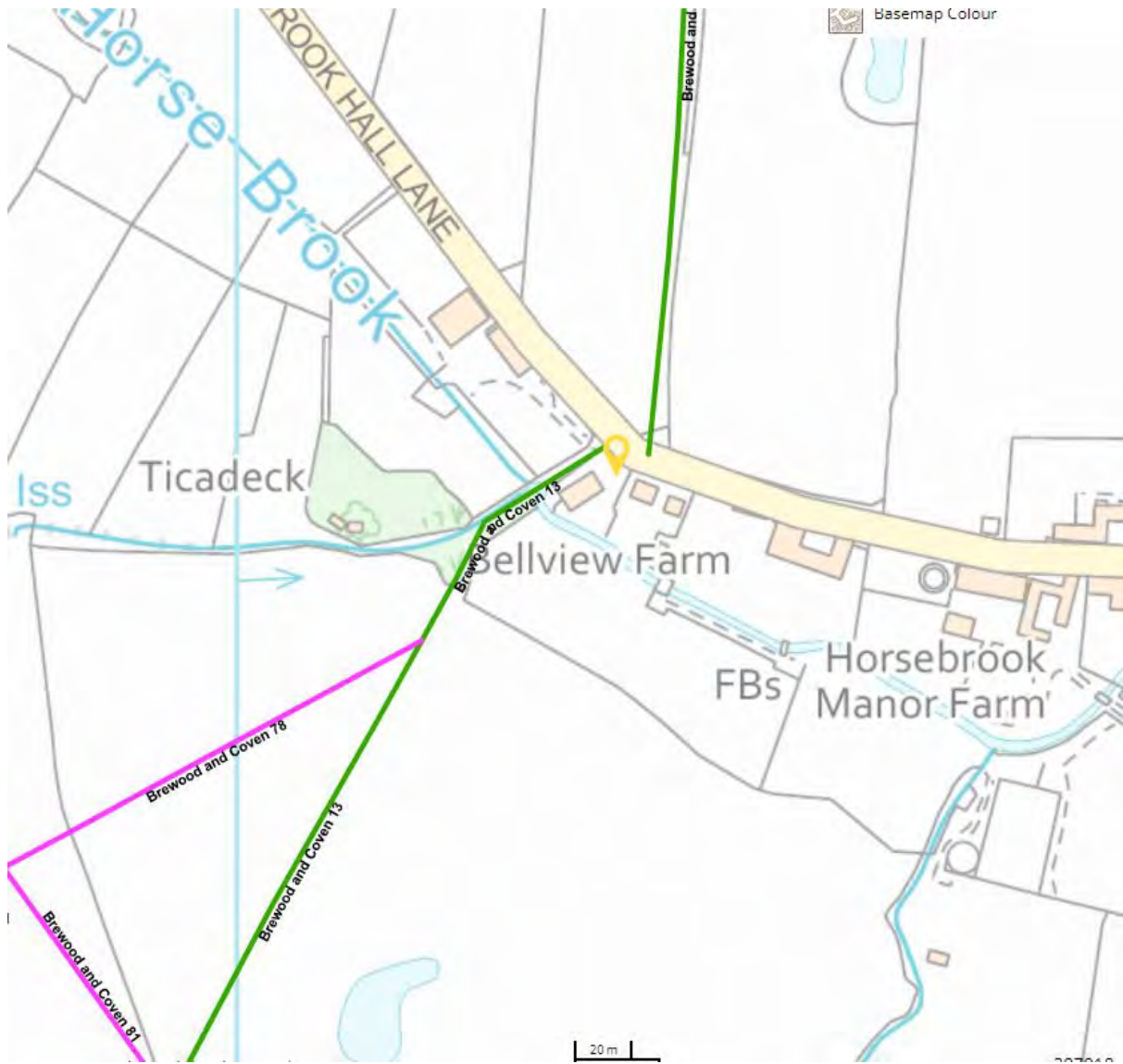
The appeal documents (including the decision when made) can be viewed online at [Enforcement Appeal Cases \(sstaffs.gov.uk\)](https://www.enforcementappeals.gov.uk) by clicking on the relevant Enforcement appeal case.

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

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

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

Telephone Enquiries: (01902) 696274 (Salindra Shakespeare)



**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR
PROPERTY**

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

PLANNING CONTRAVENTION NOTICE

ISSUED BY: SOUTH STAFFORDSHIRE DISTRICT COUNCIL

**TO: Mr S. Maloney, 2 Broomhall Cottages, Horsebrook Farm Lane, Brewood,
Staffordshire, ST19 9LD.**

1. **THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control within section 171A(1) of the above Act, at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or who is carrying out operations in, on, over or under the land or is using it for any purpose. The Council requires you, in exercise of its powers under Section 171C(2) and (3), so far as you are able, to provide certain information about interests in, and activities, on the land.
2. **THE LAND TO WHICH THE NOTICE RELATES**

Land known as 1 Broomhall Cottages Horsebrook Farm Lane Brewood Staffordshire ST19 9LD shown edged red on the attached plan (referred to as the "Land").
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Breach of condition 5 of grant of planning permission 18/00338/FUL relating to the demolition of the existing dwelling.
4. **WHAT YOU ARE REQUIRED TO DO**

Provide in writing the following information:

- a) Your full name (including any middle names), date of birth, and full address of the property at which you currently reside.

STUART IAN MALONEY 08.11.1983

2 BROOMHALL COTTAGES, HORSEBROOK FARM
LANE, BREWOOD, ST19 9LD.

b) The names, dates of birth and addresses of any other persons having an interest in the Land (include all owners, mortgagees, charges, lessees, licensees and any other person(s) with a right to the use of the Land for any purpose).


STUART MALONEY
MORTGAGE BARCLAYS BANK,

c) Are you the owner of the Land or part of the Land? Please indicate on the attached plan the extent of your ownership.

YES

d) If the answer to c) above is 'yes', please provide the date you purchased the land, price paid and details of who you purchased the land from?

02/09/2021



e) If the answer to c) was 'no', please provide the full name(s) and address(es) of the person/people who owns the Land.

f) What is the Land (including any other buildings) currently used for?

Garden,
Empty building.

g) What is the intended future use of the Land (including any other buildings)?

I had purchased the property including the attached building, waiting for contact from the council so I could apply for planning to hopefully keep it and attach to the existing N°2 cottage, saving waste building materials that would be used if extended

h) Have you applied to register the property with Land Registry? at the rear and also keeping the property looking original.

No.

- i) Were you made aware of condition 5 of Planning Permission 18/00338/FUL regarding the demolition of 1 Broomhall Cottages (copy of grant of planning permission 18/00338/FUL enclosed for reference)?

I was made aware at the time of purchase.

Looking at the online planning portal I found that the parish council and conservation had no objections to the building remaining, (the council was the only to object).

This was prior to myself purchasing.

I intended to appeal this but this is the first letter that has been addressed to me since my ownership.

It had always been my intention to try and keep the original building rather than extending at the rear as it would look a lot better aesthetically using the original.

- ii) Please mark on the attached plan the extent of the land purchased.

Time within which the information must be provided: by 8th February 2023

5. **OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO THE NOTICE**

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council will consider them before **8th February 2023**. If you wish to make representation you will need to contact the officer dealing with the case (contact details of the officer can be found on the cover letter).

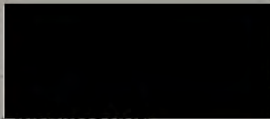
6. **WARNING**

It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice by **8th February 2023**. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.

It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular when purporting to comply with the notice. The maximum penalty on conviction of this offence is a fine of £5,000.

Please sign below to confirm you have read and understood the warning of Section 6.

SIGNATURE



DATE 05.02.23

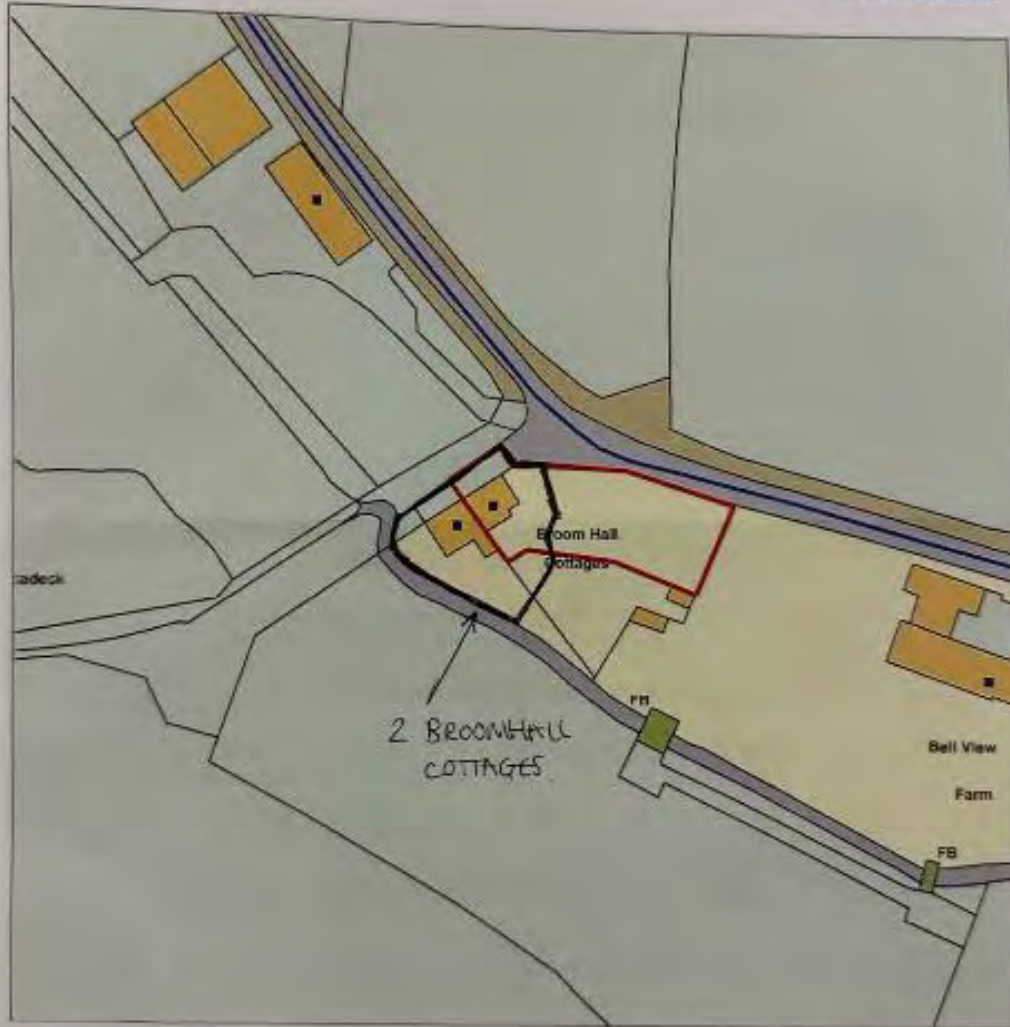
7. **ADDITIONAL INFORMATION**

If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serves a stop notice, and or one or more temporary stop notices under sections 183 and 171E respectively of the 1990 Act, section 186(5)(b) of the 1990 Act provides that you should otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have

1 Broomhall Cottages

Not Set



Scale : 1:854

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Organisation	SSDC
Department	Planning Enforcement
Comments	Not Set