



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

**S174 APPEAL  
PLANNING INSPECTORATE REFERENCES  
APP/C3430/C/24/3336376**

**APPEAL BY: MR STUART MALONEY**

**APPEAL SITE: 1, BROOMHALL COTTAGES,  
HORSEBROOK FARM LANE,  
BREWOOD,  
STAFFORDSHIRE ST19 9LD**

**LOCAL AUTHORITY REFERENCE: 22/00350/BOC**

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## 1. **INTRODUCTION**

1.1 This appeal is brought against the decision by South Staffordshire District Council to serve an Enforcement Notice, (“the Notice”) in respect of land, (“the Land”) at 1, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Staffordshire ST19 9LD.

1.2 The alleged breach of planning control is:

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.

1.3 A copy of the Enforcement Notice has previously been sent to the Planning Inspectorate. (Appendix 1).

1.4 The Land is shown under Land Registry Title reference SF670340 and the Title Register and Title Plan is produced at Appendix 2.

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

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

2.2 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 (NPPF) and policies GB1 of the South Staffordshire Core Strategy (CS) adopted 2012.

2.3 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.

2.4 On 17th August 2020, an application was received to remove condition 5, (application reference 20/00706/VAR) (“the Application”). On 6th July 2021 the Application 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 and the National Planning Policy 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.*

The Decision notice is produced at Appendix 3.

2.5 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.

2.6 For the reasons outlined at 1 & 2 above, the Dwelling remains in conflict with Policy GB1 of the CS and paragraphs 147 (152) and 149 (154) of the NPPF.

## 2.7 **National Planning Policy Framework**

13 – Protecting Green Belt Land

## 2.8 **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)

## 3. **PLANNING HISTORY**

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.

#### **4. SUMMARY OF EVENTS**

4.1 In continuation of the matters detailed in the Notice, following the Council's decision to refuse the Application, in September 2021 the owner of the dwelling sold the property.

4.2 On 5th February 2023, the new owner of the Dwelling stated, by way of a Planning Contravention Notice (PCN), that he purchased the property with the full knowledge of the requirement to demolish it by way of condition 5 of the Permission. He added that he had intended to appeal against the decision of the Council to refuse permission to remove condition 5, however no such appeal has been submitted.

The PCN is produced at Appendix 4.

4.3 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.

4.4 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.

Photographs of the site visit is produced at Appendix 5.

#### **5. GROUNDS OF APPEAL**

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

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

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

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

6.1 Since the Notice was issued the NPPF has been updated (December 2023). The updated paragraph numbers have been inserted in brackets after those from the previous iteration at Part 2 of this statement and this response to the Ground A appeal will use the December 2023 paragraph references.

6.2 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

- 6.3 Paragraph 154 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'.
- 6.4 Policy GB1 of the CS closely follows paragraph 154(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.
- 6.5 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).
- 6.6 Paragraph 154(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.
- 6.7 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.
- 6.8 Paragraph 152 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.

- 6.9 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 assessing impact on openness it is possible to take into account both the spatial and visual impact of a development.
- 6.10 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.
- 6.11 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.
- 6.12 The retention of the Dwelling therefore has a harmful visual and spatial impact on the openness of the Green Belt.
- 6.13 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'.
- 6.14 The Appellant purchased the property with the full knowledge of the requirement to demolish it by way of condition 5 of the Permission. He stated that he had intended to appeal against the decision of the Council to refuse permission to remove condition 5, however no such appeal has been submitted. The consequences of purchasing the Property with such a condition attached to it following the Council's refusal to granted permission to retain it must have been fully understood.
- 6.15 Consequently, the retention of the Dwelling remains in conflict with Policy GB1 of the South Staffordshire Core Strategy (CS) and paragraphs 152 and 154 of the Framework and the Inspector is respectfully invited to dismiss the appeal under Ground A

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

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

- 7.1 The Appellant has made an appeal under Ground F on the basis that he is of the belief that leaving the property in situ and as original as possible, would be a better trade off than using permitted developments and extending at the rear as it is better ascetically and fitting with the location. However, he has failed to grasp the reason why the condition was imposed and in any event



these matters have been fully addressed in the Council's response to the Ground A appeal.

- 7.2 The Appellant has not suggested what lesser steps could be taken to comply with the Notice, however it appears he has not understood the Grounds of appeal. In this respect following the Council's receipt of the appeal form and facts to support the Ground F appeal he was advised that it appeared the facts submitted on the appeal form to support the Ground F appeal were more suited to Ground A. He then added the Ground A appeal following this advice.
- 7.3 As such, there are no lesser steps that could be taken to reduce the harm caused other than the removal of the Dwelling in compliance with the condition 5 of the Permission and the Inspector is respectfully invited to dismiss the appeal under Ground F.

## **8. CONDITIONS**

### Removal of PD Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the dwelling(s) hereby approved without the prior approval of the Local Planning Authority:

- a. Schedule 2, Part 1, Class A - enlargement, improvement or other alteration.
- b. Schedule 2, Part 1, Class D – porches.
- c. Schedule 2, Part 1, Class E - garden buildings, enclosures, pool, oil or gas storage container.

*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.*

# APPENDIX 1

# **IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

## **TOWN AND COUNTRY PLANNING ACT 1990**

(As amended by the Planning and Compensation Act 1991)

### **ENFORCEMENT NOTICE**

#### 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.

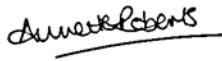
**6. TIME FOR COMPLIANCE**

Four months from the date the notice takes effect.

**7. WHEN THIS NOTICE TAKES EFFECT**

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

Dated: 1<sup>st</sup> 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:

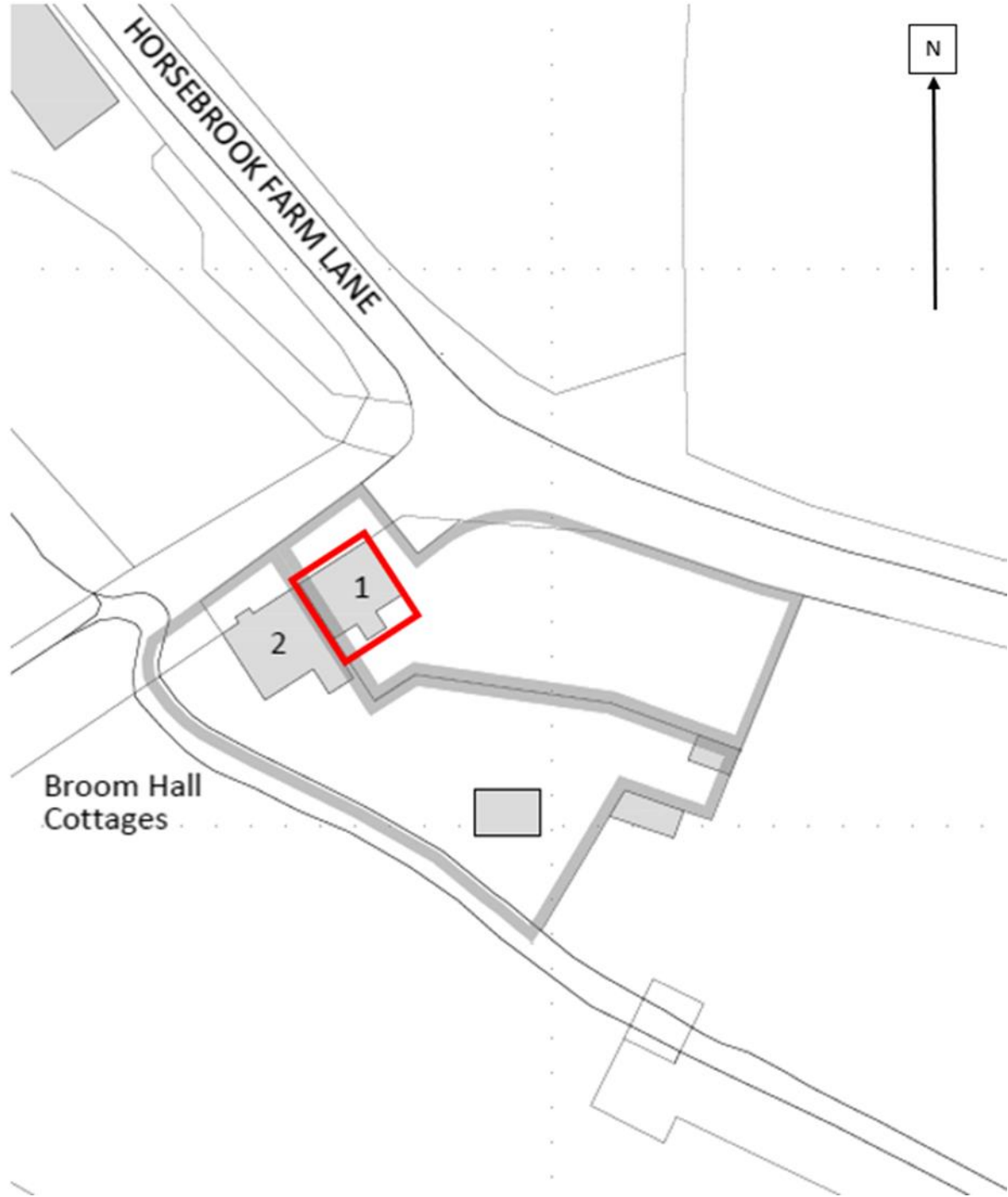
Mark Bray,

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 5<sup>th</sup> 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 5<sup>th</sup> 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](mailto: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.] <sup>1</sup>

#### **Notes**

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

#### **Extent**

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

#### **[171B. — Time limits.**

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
  - (a) The service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

- (b) Taking further enforcement action in respect of any breach of planning control, if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.”] <sup>1</sup>

Notes

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

Extent

Pt VII s. 171B: England, Wales

### [171BA Time limits in cases involving concealment

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

Notes

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

Extent

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

### [171BB Planning enforcement orders: procedure

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

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

Notes

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

Extent

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

**[171BC Making a planning enforcement order**

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

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

Notes

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

Extent

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

**[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—

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

**Notes**

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

**Commencement**

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

**Extent**

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

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

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

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

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- (3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.
- (5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.]<sup>1</sup>

**Notes**

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

**Extent**

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

**[173. — Contents and effect of notice.**

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

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

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

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

#### Notes

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

#### Commencement

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

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#### Extent

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

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

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

#### Notes

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

#### Extent

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

### 174. — Appeal against enforcement notice.

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



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

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- (f) That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

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

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

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

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

- (a) By giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
- (b) By sending such notice to him in a property addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date [ ; or ]<sup>3</sup>
- (c) [By sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.]<sup>3</sup><sup>1</sup>

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

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

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

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

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

#### Notes

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

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

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

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

#### Commencement

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

#### Extent

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

**P** Partially In Force

### 175. — Appeals: supplementary provisions.

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

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

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

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

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

#### Notes

- 1** Added by Planning Act 2008 c. 29 Sch.10 para.5 (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j)); not yet in force otherwise)
- 2** Words added by Planning and Compensation Act 1991 c. 34 Pt 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.]<sup>1</sup>
- (3) The Secretary of State—
- (a) May dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
  - (b) May allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or
  - (c) Of section 175(1) within the prescribed period.
- (4) If [section 175(3) would otherwise apply and ] **2** the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [ of this section ] **3** or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

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## Notes

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

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

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

## Commencement

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

## Extent

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

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

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

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

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

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

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

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

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

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(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) [Where an appeal against an enforcement notice is brought under section 174 and—

- (a) The land to which the enforcement notice relates is in Wales, or

(b) That land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a), the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.]<sup>5</sup>

[(5A) Where—

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

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

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

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

#### Notes

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

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

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

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

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

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

#### Commencement

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

#### Extent

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

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

Direct Line: 0303 444 5000

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

## 1. THIS IS IMPORTANT

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

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

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

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

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

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

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

# APPENDIX 2

The electronic official copy of the register follows this message.

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





# Official copy of register of title

Title number SF670340

Edition date 08.09.2021

- This official copy shows the entries on the register of title on 12 JAN 2024 at 13:40:38.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 12 Jan 2024.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Birkenhead Office.

## A: Property Register

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

STAFFORDSHIRE : SOUTH STAFFORDSHIRE

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being 2, Broomhall Cottages, Horsebrook Farm Lane, Brewood, Stafford (ST19 9LD).
- 2 (02.07.1992) The land has the benefit of the following rights granted by but is subject to the following rights reserved by the Conveyance dated 26 June 1992 referred to in the Charges Register:-

"TOGETHER WITH:-

(a) Full right and liberty (in common with the Vendor and all others entitled to the like right) to the free and uninterrupted passage and running of water soil electricity and other services to and from the Said Property through any drains pipes sewers wires or cables now existing in or under the adjoining and neighbouring land now belonging to the Vendor and known as Number 2 Broomhall Cottages Brewood aforesaid and shown for the purposes of identification only edged green on the plan annexed hereto (hereinafter called "the Green Land") or substituted therefor within a period of eighty years from the date hereof (which period is hereinafter called "the Perpetuity Period" and shall be the perpetuity period applicable to this deed) SUBJECT to the Purchasers paying (in common with all others with the like right to use the same) a fair proportion according to user of the expense of inspecting repairing cleansing maintaining repairing and renewing the same

(b) Full right and liberty (in common with the Vendor and all others entitled to the like right) to the drainage of water and soil from the Said Property into the septic tank now situate upon the Green Land in the approximate position shown marked "X" on the said plan or substituted therefor within the Perpetuity Period SUBJECT to the Purchasers paying (in common with all other persons having the like right to use the same) a fair proportion according to user of the expense of inspecting repairing cleansing maintaining repairing renewing and emptying the same

(c) Full right and liberty to enter upon the Retained Land with or without workmen and equipment at all reasonable times for the purposes of inspecting repairing cleansing maintaining relaying renewing or

## A: Property Register continued

making connection with the said drains pipes sewers wires cables or septic tank or for the purposes also of emptying the said septic tank SUBJECT to the Purchasers or other the persons exercising such rights forthwith making good all damage caused by the exercise of such rights

EXCEPT AND RESERVED unto the Vendor and her successors in title:-

(a) Full right and liberty (in common with the Purchasers and all others entitled to like right) to the free and uninterrupted passage and running of water soil electricity and other services to and from the Green Land through any drains pipes sewers wires or cables now existing in or under the Said Property or substituted therefor within the Perpetuity Period SUBJECT to the Vendor paying (in common with the Purchasers and all others having a like right to use the same) a fair proportion according to user of the expense of inspecting repairing cleaning maintaining relaying and renewing the same

(b) Full right and liberty to enter upon the Said Property with or without workmen and machinery at all reasonable times for the purposes of inspecting repairing cleaning maintaining relaying renewing or making connection with the said drains pipes sewers wires or cables SUBJECT to the Vendor or other the persons exercising such rights making good all damage caused by the exercise of such rights"

3 (03.09.1992) The land has the benefit of the following rights granted by but is subject to the following rights reserved by the Conveyance dated 20 August 1992 referred to in the Charges Register:-

"TOGETHER WITH

(a) Full right and liberty (in common with the Vendor and all others entitled to the like right) to the free and uninterrupted passage and running of water soil electricity and other services to and from the Said Property through any drains pipes sewers wires or cables now existing in or under the adjoining and neighbouring land now or formerly belonging to the Vendor and known as Number 1 Broomhall Cottages Brewood aforesaid and shown for the purposes of identification only edged blue on the plan annexed hereto (hereinafter called "the Blue Land") or substituted therefor within a period of eighty years from the date hereof (which period is hereinafter called

"the Perpetuity Period" and shall be the perpetuity period applicable to this deed) SUBJECT to the Purchaser paying (in common with all others with the like right to use the same) a fair proportion according to user of the expense of inspecting repairing cleansing maintaining repairing and renewing the same

(b) Full right and liberty to enter upon the Blue Land with or without workmen and equipment at all reasonable times for the purposes of inspecting repairing cleaning maintaining relaying renewing or making connection with the said drains pipes sewers wires or cables the Purchaser or other the persons exercising such rights forthwith making good all damage caused by the exercise of such rights

EXCEPT AND RESERVED unto the Vendor and her successors in title:-

(a) Full right and liberty (in common with the Purchasers and all others entitled to like right) to the free and uninterrupted passage and running of water soil electricity and other services to and from the Blue Land through any drains pipes sewers wires or cables now existing in or under the Said Property or substituted therefor within the Perpetuity Period SUBJECT to the Vendor paying (in common with all others with the like right to use the same) a fair proportion according to user of the expense of inspecting repairing cleaning maintaining repairing and renewing the same

(b) Full right and liberty (in common with the Purchaser and all others entitled to the like right) to the drainage of water and soil from the Blue Land into the septic tank now situate upon the Said Property in the approximate position shown marked 'X' on the said plan or substituted therefor within the Perpetuity Period SUBJECT to the Vendor paying (in common with all other persons having a like right to use the same) a fair proportion according to user of the expense of

## A: Property Register continued

inspecting repairing cleansing maintaining repairing and emptying the same

(c) Full right and liberty to enter upon the Said Property with or without workmen and machinery at all reasonable times for the purposes of inspecting repairing cleansing maintaining relaying renewing or making connection with the said drains pipes sewers wires cables or septic tank or for the purposes also of emptying the said septic tank SUBJECT to the Vendor or other the persons exercising such rights making good all damage caused by the exercise of such rights"

NOTE: The point marked X referred to is reproduced in blue on the title plan.

- 4 (08.09.2021) The Transfer dated 1 September 2021 referred to in the Charges Register contains a provision as to boundary structures.

## B: Proprietorship Register

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

### Title absolute

- 1 (08.09.2021) PROPRIETOR: STUART IAN MALONEY of 2 Broomhall Cottages, Horsebrook Farm Lane, Brewood, Stafford ST19 9LD.
- 2 (08.09.2021) The price stated to have been paid on 1 September 2021 was £367,500.
- 3 (08.09.2021) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 1 September 2021 in favour of Barclays Bank UK PLC referred to in the Charges Register.

## C: Charges Register

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

- 1 (02.07.1992) A Conveyance of the land tinted blue on the title plan dated 26 June 1992 made between (1) Edna May Moreton (Vendor) and (2) Veronica Taylor and Barbara Gardiner (Purchasers) contains the following covenants:-
- "THE Purchasers to the intent that the burden of the covenants hereinafter contained shall run with and bind the said property and each and every part thereof into whosoever hands the same may come and that the benefit thereof shall be annexed to and run with the Green Land and each and every part thereof HEREBY for themselves and their successors in title JOINTLY AND SEVERALLY COVENANT with the Vendor as follows:-
- (a) That the Said Property and any buildings erected thereon shall be used solely for the purpose of one private dwellinghouse only and for no other purpose whatsoever and that no trade manufacture or business shall at any time be carried on in or upon the Said Property or any part thereof
- (b) That no act deed matter or thing shall at any time be done suffered or permitted in or upon the Said Property or any part thereof which may be or become a nuisance annoyance or disturbance to the Vendor or her successors in title or which may tend to depreciate or lessen the value of the Green Land"
- NOTE: Copy plan filed under SF312969.
- 2 (03.09.1992) A Conveyance of the land tinted pink on the title plan dated 20 August 1992 made between (1) Edna May Moreton (Vendor) and (2) Joseph Donald Lee and Ann Lee (Purchasers) contains covenants details

## C: Charges Register continued

of which are set out in the schedule of restrictive covenants hereto.

- 3 (08.09.2021) The land is subject to any rights that are reserved by a Transfer which included the land in this title dated 1 September 2021 made between (1) Pamela Marie Penny and (2) Stuart Ian Maloney and affect the registered land.

*NOTE: Copy filed.*

- 4 (08.09.2021) REGISTERED CHARGE dated 1 September 2021.
- 5 (08.09.2021) Proprietor: BARCLAYS BANK UK PLC (Co. Regn. No. 9740322) of P.O. Box 187, Leeds LS11 1AN.

## Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 20 August 1992 referred to in the Charges Register:-

"THE Purchasers to the intent that the burden of the covenants hereinafter contained shall run with and bind the said property and each and every part thereof into whosoever hands the same may come and that the benefit thereof shall be annexed to and run with the Blue Land and each and every part thereof HEREBY for themselves and their successors in title jointly and severally COVENANT with the Vendor and her successors in title as follows:-

(a) That the Said Property and any buildings erected thereon shall be used solely for the purpose of one private dwellinghouse only and for no other purpose whatsoever and that no trade manufacture or business shall at any time be carried on in or upon the Said Property or any part thereof

(b) That no act deed matter or thing shall at any time be done suffered or permitted in or upon the Said Property or any part thereof which may be or become a nuisance annoyance or disturbance to the Vendor or her successors in title or which may tend to depreciate or lessen the value of the Blue Land

3. THE Vendor and the Purchaser HEREBY MUTUALLY COVENANT with each other for themselves and their respective successors in title for the benefit of the Blue Land and the Said Property respectively as follows:-

(a) Not to do or omit to do anything as a result of which the drainage pipes serving the said septic tank shall become blocked or in any way obstructed"

End of register

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

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

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

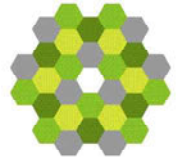
This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 12 January 2024 shows the state of this title plan on 12 January 2024 at 13:40:38. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

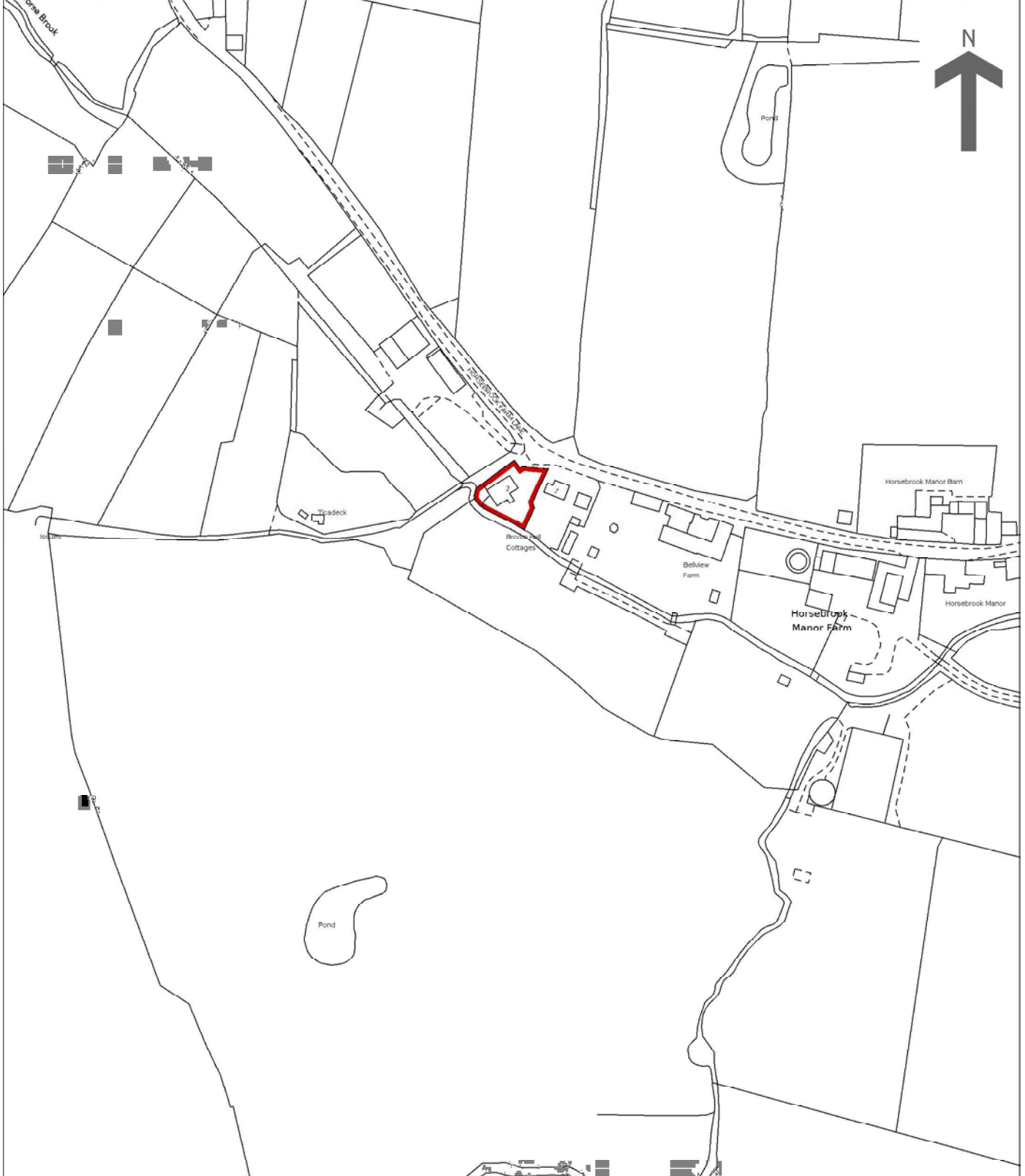
This title is dealt with by the HM Land Registry, Birkenhead Office .

HM Land Registry  
Official copy of  
title plan

Title number **SF670340**  
Ordnance Survey map reference **SJ8810SW**  
Scale **1:2500**  
Administrative area **Staffordshire : South  
Staffordshire**



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# APPENDIX 3



# South Staffordshire Council

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**Town and Country Planning Act 1990  
Town and Country Planning (General Development Procedure) Order 2015  
(as amended)**

## **REFUSAL OF PLANNING PERMISSION**

Application Number: 20/00706/VAR  
Proposed: 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).  
At: 1 Broomhall Cottages Horsebrook Farm Lane Brewood STAFFORD ST19 9LD

In pursuance of their powers under the above mentioned Act, South Staffordshire Council, hereby **REFUSE** permission for the development described in the above application.

Reasons for refusal:

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.

Signed

Dated: 6 July 2021

Development Management Team Manager



Miss P Penny  
C/O Mr Stephen Prior  
Prior Architects Limited  
6 Meadow Way  
Codsall  
Wolverhampton  
WV8 2AS

## NOTES

### APPEALS

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.

If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Otherwise, if you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

However, if you are not sure which of these time limits applies to your decision please contact the Planning Inspectorate

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.

If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

## **PURCHASE NOTICE**

If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or the Secretary of State Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Borough Council or District Council or County Council in which the land is situated, as the case may be, a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## **COMPENSATION**

In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

# APPENDIX 4

**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**

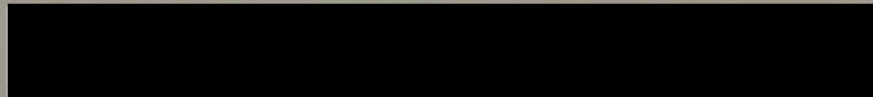
**TO: Mr S. Maloney, 2 Broomhall Cottages, Horsebrook Farm Lane, Brewood,  
Staffordshire, ST19 9LD.**

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



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

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

Garden.  
Empty building.

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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.

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

Time within which the information must be provided: by 8<sup>th</sup> 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).

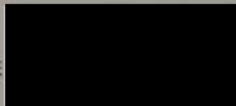
6. **WARNING**

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**

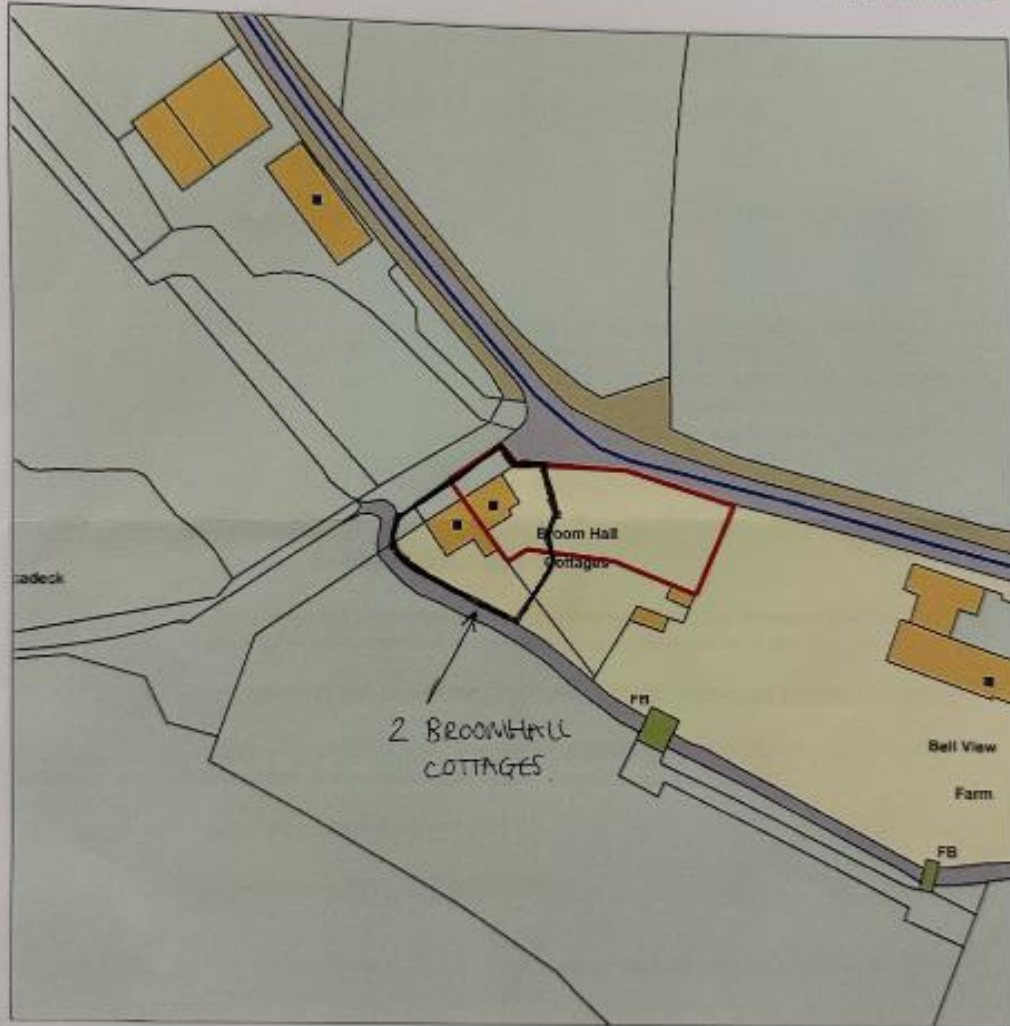
If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

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 : 1:884

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Organisation	SSDC
Department	Planning Enforcement
Comments	Not Set

# APPENDIX 5



27-Oct-2023 10:51

Mark Bray Planning Enforcement Consultant

# APPENDIX 6



South Staffordshire Council

# Core Strategy

December 2012



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



A Local Plan for  
South Staffordshire

# **Core Strategy Development Plan Document**

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

South Staffordshire Council

### **Policy GB1: Development in the Green Belt**

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

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

Development proposals should be consistent with other local planning policies.

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