



Planning | Architecture | Master Planning

Town and Country Planning Act 1990 (as amended) Appeal under Section 174 of the Act

Written Representations Procedure: Grounds of Appeal

Appeal by Mrs Vicky Brewster against the Enforcement Notice issued by Bromsgrove District Council in respect of Firs Farm, Old Birmingham Road, Marlbrook, Bromsgrove B60 1NS

**Our Reference: 22035 GOA AC1
Bromsgrove District Council Reference Number: 23/00181/INV
October 2023**

1. Enforcement Notice Appeal

Introduction

- 1.1 An Enforcement Notice was served by Bromsgrove District Council (hereafter referred to as the Council) on 21st September 2023 on various persons including the Appellant pursuant to an alleged breach of planning control at Firs Farm, Old Birmingham Road, Marlbrook, Bromsgrove B60 1NS.
- 1.2 This appeal against the Enforcement Notice has been submitted following instructions by our Client, Mrs Vicky Brewster, (hereafter referred to as the Appellant) to deal with this matter on his behalf.

The Enforcement Notice

- 1.3 A copy of the Enforcement Notice accompanies the completed appeal form and its content does not need to be repeated verbatim at this juncture. The breach of planning control alleged is set out within the Enforcement Notice, along with the reasons the Council has given for issuing the Notice.
- 1.4 The Enforcement Notice requires the Appellant to:
 - a. Permanently cease the importation and deposition of material on the Land (including but not limited to) soil and rubble.
 - b. Permanently cease the utilisation of material described at '5a' above for the purposes of engineering operations on the land.
 - c. Permanently cease the use of the land for open storage of plant and machinery.
 - d. Permanently remove from the Land all plant and machinery which is associated with the unauthorised use.
 - e. Permanently remove the imported material deposited on to the land shown coloured black on the Plan, and restore that land profile to its condition before the breach took place.
- 1.5 The Enforcement Notice requires these steps to be carried out within 1 month after the Notice takes effect on 23rd October 2023.

2. The Grounds of Appeal

- 2.1 In considering any enforcement action, the Council should have regard to the NPPF, in particular paragraph 58 which states:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate.” (Author’s emphasis).

2.2 In accordance with the NPPG, the provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way.

2.3 The appeal is made to the Planning Inspectorate on the following grounds:

Ground (c) - That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

2.4 Further elaboration, detailed commentary and evidence will be provided in support of the appeal made under Ground C within the Appellant's Statement of Case in due course.

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

2.5 The Enforcement Notice identifies the land affected by the alleged breach of planning control as:

("the Land"), shown edged in red on the attached plan ("the Plan") [but excluding the land edged blue] at Appendix 3



- 2.6 However, the alleged breach of planning control specified in section 3 of the Enforcement Notice is:

“Without planning permission, the importation and deposition of material (including but not limited to) soil and rubble; and consequential engineering operations to create a hard standing in association with open storage use in the approximate location shown coloured black on the Plan, hereby referred to as “the unauthorised development”. (Author’s emphasis).

- 2.7 As such, it is considered that the requirements of the Enforcement Notice under section 5 relate to land beyond that specified in section 3. Rather, it appears to include the wider site. The requirements of the Enforcement Notice are therefore considered to be unreasonable and excessive in this regard.

Ground (g) – That the time given to comply with the notice is too short

- 2.8 The Enforcement Notice only allows the Appellant 1 month in total to comply fully with the requirements of the Notice. To permanently remove all plant and machinery from "the Land" identified on the plan attached to the Enforcement Notice, permanently remove the imported material deposited on to the land shown coloured black on the plan attached to the Enforcement Notice, and then to restore the profile of that land as is being required by the Enforcement Notice is considered to be completely unrealistic and unreasonable.

- 2.9 Given the requirements of section 5d and section 5e of the Enforcement Notice, it is entirely reasonable that the Appellant first be afforded the opportunity to secure other arrangements for the storage of plant and machinery, the disposal of imported material deposited on the land in question, subject to the necessary planning permission(s), and thereafter make arrangements to reprofile that land to its former condition. In this regard, the timeframes stated within the Notice are considered to be unreasonable in this case. The Appellant considers a period of 12 months would be more appropriate, should the requirements of the Enforcement Notice ultimately be considered to be necessary.

3. Conclusion

- 3.1 This statement accompanies the formal appeal of the Enforcement Notice issued by Bromsgrove District Council, dated 21st September 2023.
- 3.2 This submission will be supported by a further comprehensive Statement of Case to be submitted at the “6-week stage” in accordance with the Enforcement Appeal timetable.