

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

ISSUED BY: Bromsgrove District Council ("the Council")

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and other material considerations. The Appendices at the end of this notice contain important additional information.

2. **THE LAND AFFECTED**

Land at Firs Farm, 244 Old Birmingham Road, Marlbrook, B60 1NS

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

3. **THE BREACH OF CONTROL ALLEGED**

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".

4. **REASONS FOR ISSUING THIS NOTICE**

- i) It appears to the Council that the above breach of planning control has occurred –
 - within the last ten years in respect of the material change of use of the Land, and
 - within the last four years in respect of the operational development.
- ii) The Land is situated within the Green Belt. The use of the Land for open storage and associated engineering operations to create a hard standing has a greater spatial impact upon openness of the Green Belt than the former agricultural use. There is a loss of openness and an adverse impact on the related Green Belt purpose of safeguarding the countryside from encroachment. Therefore, the unauthorised development constitutes 'inappropriate development' in the Green Belt. Inappropriate development is by definition harmful to the Green Belt.

Accordingly, the unauthorised development is contrary to Policies BDP4 of the Bromsgrove District Plan (2011-2030) ("the BDP") and Paragraphs 138(c), 147, 148, 149, 150 of the National Planning Policy Framework (July 2021) ("the NPPF") and no very special circumstances exist to justify approval of this development.

- iii) The use of the land for open storage, without any mitigation measures to control noise and disturbance, make it incompatible with the established, neighbouring residential properties and risks unacceptable harm to the amenities of the occupiers of those dwellings.

Accordingly, the development is contrary to Policies BDP1 of the BDP and Paragraphs 174 (e), 185 of the NPPF.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of planning control specified in paragraph 3 of this notice, you are required to take the following steps:-

- 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.

6. TIME FOR COMPLIANCE:

One month after this Notice takes effect (see Section 7).

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 23 October 2023 unless an appeal is made against it beforehand.

Dated: 21 September 2023

Signed:



Name: Claire Green

Position: Principal Solicitor

On behalf of: **Bromsgrove District Council,
Parkside, Market Street, Bromsgrove B61 8DA**

Appendix 1

The Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002; Part 2,5 (c)

ENFORCEMENT NOTICE

LIST OF NAMES AND ADDRESSES OF THE PERSONS UPON WHOM A COPY OF THE ENFORCEMENT NOTICE HAS BEEN SERVED

1. SOUTHSIDE PROPERTIES (MIDLANDS) LTD (Co. Regn. No. 12650734) of Ascot House, 246 Court Oak Road, Birmingham B32 2EG.
2. O'REILLY CONTRACT SCAFFOLDING LTD (Co. Regn. No.07072971) (in Administration) c/o Andrew Mackenzie and Laura Baxter (joint administrators) of Begbies Traynor (Central) LLP, Unit 8b Marina Court, Castle Street, Hull, HU1 1TJ.
3. Together Commercial Finance Ltd (Co. Regn. No. 2058813) of Lake View, Lakeside, Cheadle, SK8 3GW.
4. The owner(s) / occupier(s), Firs Farm, 244 Old Birmingham Road, Marlbrook, B60 1NS

Appendix 2

YOUR RIGHT OF APPEAL

Bromsgrove District Council has issued an enforcement notice relating to the land detailed in (2) above. I now serve on you a copy of that notice in view of your interest in the land.

Copies of the notice may also be served on other parties identified as having an interest in the land. Any other persons served with a copy are shown on a separate sheet attached to the notice.

There is a right of appeal to the Secretary of State through the Planning Inspectorate against the Council's decision to issue the notice. Unless an appeal is made as described below, the notice will take effect on and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

The links below provide advice about appealing against this notice:

<https://www.gov.uk/appeal-enforcement-notice>

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

<https://www.gov.uk/government/publications/enforcement-notice-appeals-how-to-complete-your-appeal-form>

Alternatively you can contact the Planning Inspectorate by

Phone: 0303 444 5000

Email: enquiries@pins.qsi.gov.uk

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 the following date.

DEADLINE FOR APPEAL - BEFORE: 23/10/2023

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 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 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 the above grounds may be relevant to you.

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 briefly state 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.

If your appeal includes a submission under Ground (a) as outlined above, this is the equivalent of making an application for planning permission for the development or change of use alleged in the notice. That carries a fee which is double the standard fee for such an application. Accordingly, you will have to pay a fee of **£924.00** , which should be paid to Bromsgrove District Council.

- Agents should note that if ground (a) is not pleaded at the very beginning the Inspectorate will not delay the processing of the appeal.
- Appellants should set out all grounds for making their appeal and provide supporting facts for each ground when making the appeal.

- It is important that if the appellant wants the planning merits of the development to be considered – known as the “deemed planning application ” - they must plead ground (a) and pay the fee for that application to the local planning authority when making their appeal. If this is not done, the planning merits and any subsequent ground (a) appeal (Ground (a) - that planning permission should be granted (or that the condition or limitation referred to in the enforcement notice should be removed) cannot be considered by the Inspector. The appeal will only be determined on the grounds of appeal as submitted on the appeal form.

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.

Appendix 3

The Plan

