

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/L1765/C/20/3256531

A. APPELLANT DETAILS

Name

Address

Preferred contact method Email Post

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice? Yes No

B. AGENT DETAILS

Do you have an Agent acting on your behalf? Yes No

Name

Company/Group Name

Address

Phone number

Email

Preferred contact method Email Post

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

LPA reference number (if applicable)	20/00104/WKS
Date of issue of enforcement notice	19/06/2020
Effective date of enforcement notice	24/07/2020

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address? Yes No

Does the appeal relate to an existing property? Yes No

Address

Unit 4, Ten Acres
 Cemetery Lane
 Emsworth
 Hants
 PO10 8QB

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? Yes No

Please describe the health and safety issues

Grazing livestock

What is your/the appellant's interest in the land/building?

Owner

Tenant

Mortgagee

None of the above

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? Yes No

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

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

The facts are set out in the box below

The site is agricultural in use and always has been, there has been no material change of use. The trailer is used for the storage of hay and the container on site is used for the storage of agricultural equipment animal feed and stock proof fencing. Both are directly associated with the sites lawful agricultural use and as such there is no identified breach of planning control. Indeed the enforcement notice requires them to be removed from the site only if they are not associated with the agricultural use of the land. As a matter of fact therefore, there has been no breach in planning control.

Section 55 of the Town and Country planning Act states:

Meaning of "development" and "new development".

Subject to the following provisions of this section, in this Act, except where the context otherwise

requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

For the purposes of this Act "building operations" includes—.

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and.
- (d) other operations normally undertaken by a person carrying on business as a builder.

The laying of hard core by the appellant to provide a mud free surface would not amount to an engineering operation (by a person carrying on business as a builder.), or meet with the definition of development. As such there is no breach of planning control.

The replacement of the drainage pipe and laying of a water pipe for the livestock on site again is not considered to amount to development as defined by section 55 as this is simply replacing a small section of existing piping under the newly improved access.

It is therefore maintained that none of the items listed by Winchester City Council's planning enforcement team would constitute development.

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



The facts are set out in

the box below

If the Inspector disagrees with the appellants assertions over what amounts to development and what does not and decides that the work listed by the LPA does constitute development under the definition of Section 55 of the TCPA 1990, then it is asserted that the works listed would be allowed under the provisions specified by Schedule 2, Part 6, Class B of the GPDO (agricultural development on units of less than 5 hectares).

The appeal site is approximately 1.8 hectares and as such any development would be considered against this provision.

The notice requirements in Section 5 stipulate:

1 - Cease the use of the land for the storage/parking of mobile units and vehicles not associated with the agricultural use of the land.

The vehicles and mobile units are associated with the lawful agricultural use of the land. There is no storage of vehicles or mobile units other than those associated with the agricultural use.

2 - Remove all trailer units, mobile units and vehicles, containers that are not associated with the agricultural use of the land.

There are no trailer units, mobile units, vehicles or containers other than those used in association with the agricultural use to store hay, agricultural machinery, site fencing and feed.

3 - Remove the hardstanding and drainage runs/pipes from the land.

Part 6, Class B (c) allows for the provision, rearrangement or replacement of a sewer, main pipe, cable or other apparatus. The replacement drainage pipes and water pipe would therefore be allowed by this provision and is necessary for the continued surface water drainage of this site and neighbouring sites.

Part 6, Class B (e) allows for the provision of a hard surface. The laying of hardcore to provide a surface area for agricultural vehicles to enter and leave the site in a forward gear would accord with this provision and offer clear highway safety benefits.

4. Remove any resultant waste and restore the land to its former condition. There is no resultant waste on site.

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



- (e) The notice was not properly served on everyone with an interest in the land.
- (f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The facts are set out in

the box below

The Councils enforcement team have largely acted on hear say from complainants and at no time have they sought to identify and confirm any specific issues of concern with the appellant. It would have been prudent to issue a Planning Contravention Notice (PCN) to establish the facts on site prior to the service of an enforcement notice. Had they done so it is unlikely that there would have been any need or prudence in serving an Enforcement Notice.

As mentioned above the notice requires the removal of all vehicles, containers and mobile trailers/units that are not being used for agricultural purposes. A PCN would have established that all vehicles, mobile units and containers are being used for agricultural purposes and as such would not have been included in the EN. Indeed if established as agricultural items the notice allows for them to remain. This could have been established outside of this appeal process.

The removal of drainage runs and pipes. This is extremely excessive given that all that has occurred is the replacement of existing piping to allow for better surface water drainage. Drainage that not only benefits the appeal site, but surrounding sites also. It would be counterproductive to reinstate original blocked pipes.

The removal of the hardcore surface to allow the parking and turning of agricultural vehicles on site is also excessive given that it prevents the deposit of mud from the site onto the highway. A lesser step would be to allow a smaller area of hardstanding on-site.

- (g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

The works have been undertaken by the appellant and any removal would need to be factored into the day to day running of the agricultural site. The works would not only require removal but site clearance also and in a manner that is conducive to the general running and maintenance of the sites livestock. It would therefore be more prudent to allow 6 months for the work to be undertaken.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

The Inspector would need to enter the site to make a full and proper assessment.

2. Hearing

3. Inquiry

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

a) the date of the relevant application

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes No

the box below

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes No

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see '[Appeal Documents](#)' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Date

Name

On behalf of

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018. Further information about our Data Protection policy can be found on our website under Privacy Statement.

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@pins.gsi.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: Enforcement Notice and Location Plan.pdf

Completed by MR STEPHEN ANDREWS

Date 23/07/2020 16:04:42