

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

SOUTH DOWNS NATIONAL PARK AUTHORITY

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

MATERIAL CHANGE OF USE

ENFORCEMENT NOTICE

Issued By: South Downs National Park Authority

To: [REDACTED] HSBC Private Bank (UK) Ltd,
[REDACTED] 78 St James's Street
[REDACTED] London
[REDACTED] SW1A 1JB
[REDACTED]
[REDACTED]

1. **THIS IS A FORMAL NOTICE** which is issued by the South Downs National Park Authority ("the Authority"), because it appears 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 Authority considers 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 THE NOTICE RELATES**

Land at Burton Park Farm Cottage, Burton Park Road, West Sussex, comprising all that land shown edged red on the attached plan (referred to as 'the Land')

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without the benefit of planning permission, the material change of use of the Land from grassland pasture to a mixed use of the Land for grassland pasture and waste disposal of soils and other waste materials, comprising a mix of hardcore, plastics, metal and tarmacadam, within the red line boundary of the attached plan.

4. **THE REASON FOR ISSUING THE NOTICE**

The Authority considers that a material change of use has occurred within the last 10 years without the benefit of planning permission and is unacceptable for the following reasons:

1. The unauthorised change of use of the Land resulting from the disposal of waste within the South Downs National Park and Grade II Burton Park historic parkland garden is harmful to the visual quality and distinctive characteristics of the protected landscape and heritage asset, and does not seek to conserve and enhance the landscape character or protect the countryside of the National Park and has not shown a need for a countryside location or that the waste cannot be managed at a permitted site, contrary to paragraphs 109 and 115 of the National Planning Policy Framework, policies W9, W11 and W13 of the West Sussex Waste Local Plan 2014, policy RE4 of the Chichester District Local Plan 1999, and policy SD5, SD7 and SD37 of the South Downs National Park Preferred Options Local Plan Policy.
2. This use of the Land does not take account of the need to integrate with local landscape character, the characteristics of the site in terms of topography, and natural and man-made features contrary to West Sussex Waste Local Plan Policy W12.

5. WHAT YOU ARE REQUIRED TO DO

1. Cease the use of the Land for the disposal of waste by removing from the Land shown in red at "Area A" on the attached plan, all items connected with the waste disposal use, including but not limited to waste soils, hardcore, plastics, metals, and tarmacadam.

6. TIME FOR COMPLIANCE

1. 270 days after the enforcement notice taking effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **2 September 2016** unless an appeal is made against it beforehand.

8. TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 1999

The Authority considers that the development is not EIA development. If the development subject of this Notice were to be granted planning permission, an environmental statement would not be required.

Date: 29 July 2016

Signed: Tim Slaney, Director of Planning, South Downs National Park Authority

On behalf of: South Downs National Park Authority
Nominated Officer: Natalie Chillcott
Telephone Number: 01730 819289

ANNEX 1 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.

Link to: <http://www.planningportal.gov.uk/uploads/pins/eninfosheet.pdf>

Annex 5 gives details of documents produced by the planning Inspectorate on how to make an appeal.

ANNEX 2 WHAT HAPPENS IF YOU DO NOT APPEAL

Unless an appeal is made, as described below, the notice will take effect on **2 September 2016** on which date you must ensure that the required steps, for which you may be held responsible, are taken within the time period(s) for compliance as specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Authority.

ANNEX 3 GUIDANCE NOTES

The following sections of the Town and Country Planning Act 1990 are relevant to Enforcement Notices:

- S171A – Expressions used in connection with enforcement
- S171B – Time limits
- S172 – Issue of an Enforcement Notice
- 172A – Assurance as regards prosecution for person served with a notice
- S173 – Contents and effect of Notice
- S173A – Variation and Withdrawal of Notice
- S174 – Appeal against Enforcement Notice
- S175 – Appeal – supplementary provisions
- S176 – General provisions relating to the determination of appeals
- S177 – Grant/modification of planning permission on appeals against Enforcement Notices.

Lodging an Appeal

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 **£385** to the South Downs National Park Authority. Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, 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.

Annex 4 LIST OF ALL RELEVANT POLICIES

South Downs National Park Authority: Purposes and Duty

Purpose 1: To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.

Purpose 2: To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

Duty: To seek to foster the social and economic well-being of the local communities within the National Park in pursuit of our purposes.

Paragraph 109 of the National Planning Policy Framework

109. The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 115 of the National Planning Policy Framework

115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

West Sussex Waste Local Plan Policies Policy W11 Character.

Proposals for waste development will be permitted provided that they would not have an unacceptable impact on:

- a) the character, distinctiveness, and sense of place of the different areas of the County and that they reflect and, where possible, reinforce the character of the main natural character areas (including the retention of important features or characteristics); and
- b) the separate identity of settlements and distinctive character of towns and villages (including specific areas or neighbourhoods) and development would not lead to their actual or perceived coalescence.

Policy W12 High Quality Developments.

Proposals for waste development will be permitted provided that they are of high quality and, where appropriate, the scale, form, and design (including landscaping) take into account the need to:

- a) integrate with and, where possible, enhance adjoining land-uses and minimise potential conflicts between land-uses and activities;
- b) have regard to the local context including:
 - i. the varied traditions and character of the different parts of West Sussex;
 - ii. the characteristics of the site in terms of topography, and natural and man-made features;
 - iii. the topography, landscape, townscape, streetscape and skyline of the surrounding area;
 - iv. views into and out of the site; and
 - v. the use of materials and building styles;
- c) includes measures to maximise water efficiency;
- d) include measures to minimise greenhouse gas emissions, to minimise the use of non-renewable energy, and to maximise the use of lower-carbon energy generation (including heat recovery and the recovery of energy from gas); and
- e) include measures to ensure resilience and enable adaptation to a changing climate.

Policy W13 Protected landscapes

- a) Proposals for waste development within protected landscapes (the South Downs National Park, the Chichester Harbour Area of Outstanding Natural Beauty (AONB), and the High Weald AONB) will not be permitted unless:
 - i. the site is allocated for that purpose in an adopted plan; or
 - ii. the proposal is for a small-scale facility to meet local needs that can be accommodated without undermining the objectives of the designation; or
 - iii. the proposal is for major* waste development that accords with part (c) of this Policy.
- b) Proposals for waste development located outside protected landscapes will be permitted provided that they do not undermine the objectives of the designation.
- c) Proposals for major* waste development within protected landscapes will not be permitted unless:
 - i. there is an overriding need for the development within the designated area; and
 - ii. the need cannot be met in some other way or met outside the designated area; and
 - iii. any adverse impacts on the environment, landscape, and recreational opportunities can be satisfactorily mitigated.

Chichester District Local Plan—adopted 1999 (saved policies)

Policy RE4: Areas of Outstanding Natural Beauty – Chichester Harbour and Sussex Downs Protection of Landscape Character

Area of outstanding natural beauty will be considered and enhanced. Any development which would be harmful to their visual quality or distinctive character will not be permitted except in compelling circumstances:

Need for development essential for agriculture or forestry or for quiet informal recreation, for roads, the extraction of minerals or the deposit of waste may exceptionally be regarded as compelling provided that the proposal cannot be located or designed so as to meet these needs without giving rise to such harm;

Applications for roads, mineral working or waste disposal will be subject to the most rigorous examination because of the possible impact on such development on natural beauty. Major development for any purpose are likely to be inconsistent with the designation of areas of outstanding natural beauty and any applications will need to be accompanied by environmental assessments; They will be permitted only if there is an overriding national interest and no acceptable alternative location is available;

Any development permitted will be required to be in sympathy with the landscape and designed and sited so as to enhance visual quality and minimise noise disturbance; Particular attention will be given to the setting and to the off-site impact of any traffic generated and any consequential highway improvements on the character, appearance and amenity of villages or the countryside;

Development outside but near to a designated area of outstanding natural beauty will not be permitted if it would be unduly prominent in or detract from views into or out of the area of

outstanding natural beauty (particularly from roads, rights of way or other public places), or would otherwise threaten public enjoyment of the area of outstanding natural beauty.

South Downs National Park Preferred Options Local Plan 2015

Strategic Policy SD5: Landscape Character

1. Development proposals which conserve and enhance the landscape character of the South Downs National Park and comply with other relevant policies, in particular, Policy SD6 (Design) will be permitted. It should be clearly demonstrated that development proposals are informed by:
 - the South Downs Integrated Landscape Character Assessment (SDILCA) (2011);
 - community-led/local landscape character assessments; and
 - appropriate site based investigations.
2. And are, as appropriate, in accordance with the following requirements:
 - a) The design, layout and scale of proposals should conserve and enhance existing landscape character features including topography, vegetation, scale and pattern, natural drainage, existing trees and hedgerows, whilst safeguarding the experiential and amenity qualities of the landscape. Where appropriate, the creation of green corridors which extend into settlements will be supported.
 - b) The use of locally appropriate design and layout, which limits the need for screening planting, in accordance with Policy SD6 (Design). Any appropriate planting should be consistent with local character, enhance biodiversity and be in accordance with Policy SD14 (Green Infrastructure). New planting should be native species unless there are appropriate and justified reasons to select non-native species.
 - c) Natural and historic features which contribute to the distinctive character and pattern of the landscape and its evolution are conserved and enhanced, including reference to the South Downs and Pan Sussex Historic Landscape Character Assessments and other appropriate research material.
 - d) Where proposals are within designed landscapes (including historic parkscapes and those on the Historic England Register of Historic Parks and Gardens) they should be based on a demonstrable understanding of the design principles of the landscape and should be complementary to it.
 - e) The open and undeveloped nature of existing gaps between settlements will be conserved and, where appropriate, enhanced.
3. The restoration of landscapes where either natural or cultural heritage features have been lost or degraded will be sought.
4. Development proposals that would have an unacceptable adverse impact on the character of the immediate and wider landscape or the special qualities of the National Park will be refused.

Strategic Policy SD7: Safeguarding Views

1. Development proposals that conserve and enhance views and comply with other relevant policies will be permitted where they take into account the following view types and patterns which are identified in the Viewshed Study:
 - a) landmark views to and from viewpoints and tourism and recreational destinations;
 - b) views from publicly accessible areas which are within, to and from settlements which contribute to the viewers enjoyment of the National Park;
 - c) views from public rights of way, open access land and other publicly accessible areas; and
 - d) views which include specific features relevant to the National Park and its special qualities, such as cultural heritage and
2. Sequential views and cumulative features and impacts within views have been appropriately assessed and appropriately mitigated for, where necessary.
3. Development proposals that would have an unacceptable adverse impact on this special quality of the National Park will be refused.

Policy SD37: Trees, Woodland and Hedgerows

1. Development proposals that affect trees hedgerows and woodland should clearly demonstrate that:
 - a) Development proposals have been informed by a full site survey, including an arboricultural survey, and

- b) Appropriate protection measures are in place throughout the development process.
2. An appropriate buffer zone, where applicable of semi-natural habitat, should be established between any development and an area of woodland. A minimum buffer of 15 metres will normally be required between the development and ancient woodland or veteran trees.
3. Development proposals should provide adequate protection zones and buffers around trees, woodland and hedgerows to prevent damage to root systems and taking account of future growth.
4. The felling of protected trees, groups of trees or woodland will only be permitted in exceptional circumstances and in accordance with the relevant legislation, policy and good practice recommendations. Where protected trees are subject to felling, a replacement of an appropriate number, species, size and in an appropriate location will normally be required.
5. Where the loss of non-protected trees, woodland or hedgerows is proposed as part of development proposals, appropriate replacement or compensation will be required.

ANNEX 5

GUIDANCE NOTES ON HOW TO MAKE AN APPEAL

Printed copies attached

1. Planning Inspectorate – Making your appeal - How to Complete Your Enforcement Appeal Form - England (November 2015)
2. Planning Inspectorate – Procedural Guidance – Enforcement Appeals - England (July 2015)

These documents can also be found at:

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

ANNEX 6

THOSE PERSONS SERVED WITH THIS NOTICE

- 1) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 2) HSBC Private Bank (UK) Ltd
78 St James's Street
London
SW1A 1JB