

ENFORCEMENT NOTICE

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)

TO :



Issued By : South Downs National Park Authority

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 this Notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at 2 Pumping Station Cottages, Balsdean, Rottingdean, Brighton, Brighton & Hove, BN2 7LA as shown edged red on the attached plan ("the Plan")

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

Without planning permission, the material change of use of the land within the red line of the Plan from sole residential occupation to a mixed use for residential occupation and for the stationing of a mobile home (caravan), for the purposes of independent residential occupation, such use being more than incidental to the enjoyment of the primary residential dwelling on the land. Shown in the approximate position hatched black and marked A on the Plan.

4. THE REASON FOR ISSUING THE NOTICE

It appears to the Authority that the above breach of planning control has occurred within the last ten years.

The land is situated in the South Downs National Park. The Authority has the following statutory purposes and socio-economic responsibilities, as specified in the Environment Act 1995.

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

It is also the duty of the Authority to seek to foster the economic and social well-being of the local communities within the National Park.

The Authority is of the opinion that the use of the mobile home (caravan) for independent residential accommodation is a material change of use, such use being more than incidental to the enjoyment of the primary residential use of the land, and instead that a separate independent residential dwelling has been created. The siting of a separate residential dwelling in this isolated rural location is contrary to both local and national planning policies, and the mobile home (caravan), together with the associated constructed decking and balustrades, would have a detrimental visual impact on the landscape character of this part of the National Park.

It is considered that this material change of use is contrary to:

Policy NC6 of the Brighton and Hove Local Plan 2005

Paragraph 55 of the National Planning Policy Framework

Paragraph 115 of the National Planning Policy Framework

Policy SD22 of the South Downs National Park Preferred Options Local Plan 2015

The Authority does not consider that planning permission should be granted because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Discontinue the use of the land for the stationing of a mobile home (caravan) for the purposes of independent residential occupation which is more than incidental to the enjoyment of the primary residential use of the land, such that the use of the land reverts to a solely residential use

6. TIME FOR COMPLIANCE

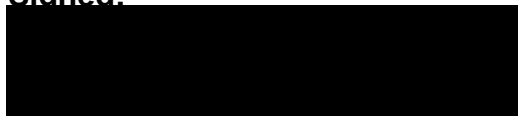
- (i) 12 Months beginning with the day on which the Notice was served on you.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 7th March 2017, unless an appeal is made against it beforehand.

Date : 7th January 2017

Signed:

A solid black rectangular box used to redact the signature of the nominated officer.

On behalf of: South Downs National Park Authority

Nominated Officer: Andrew George

Telephone Number: 01730 819278

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/enfinfosheet.pdf>]

ANNEX 2

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 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 a Notice
S175 – Appeal – supplementary provisions
S176 – General provisions relating to the determination of appeals
S177 – Grant/modification of planning permission on appeals against 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 £344.00** 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.

NC6 Development in the countryside / downland

Development will not be permitted outside the built up area boundary as defined on the Proposals Map. Exceptions will only be made where there will be no significant adverse impact on the countryside / downland and at least one of the following criteria apply:

- a. the proposal is specifically identified as a site allocation elsewhere in this Plan, the siting of which is shown and complies with the Proposals Map;
- b. a countryside location can be justified, - for example, proposals are reasonably necessary for the efficient operation of farms, horticulture or forestry including the diversification of activities on existing farm units which do not prejudice the agricultural use;
- c. in appropriate cases and where enhancements to the countryside / downland will result, proposals for quiet informal recreation e.g. walking, horse riding and cycling; or
- d. proposals for the change of use of existing buildings which are in keeping with their surroundings and are of a sound and permanent construction.

Where development is permitted, it will be required to be unobtrusive and must respect the form, scale and character of the landscape. For example, through careful siting, design and use of materials. New buildings should be sited adjacent to existing buildings or building groups, rather than isolated in the landscape.

Proposals should have no adverse effects on, and where appropriate enhance and expand, nature conservation features. Proposals will not be permitted if they result in a

level of light pollution, noise, traffic or activity which is out of keeping with its countryside location.

The conversion of existing farm buildings to residential use will only be permitted where it is demonstrated that every attempt has been made to secure a suitable business re-use with no success or where it is to provide social rented accommodation to meet an essential housing need within the locality.

Planning permission for development in the countryside may, if appropriate, be subject to a condition restricting development which would otherwise be permitted under the Town and Country Planning (General Permitted Development) Order, 1995.

All planning applications for sites outside the built up area should be accompanied by a detailed written design statement which takes into account how the proposal integrates with the surrounding area and nature conservation. Where opportunities arise through development, the planning authority will seek the enhancement of the landscape and the removal of inappropriate development.

Paragraph 55 of the National Planning Policy Framework

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

Such a design should:

1. be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
2. reflect the highest standards in architecture;
3. significantly enhance its immediate setting; and
4. be sensitive to the defining characteristics of the local area.

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.

Policy SD22 of the South Downs National Park Preferred Options Local Plan 2015

1. The following settlements within the five Broad Areas of the National Park will have defined settlement boundaries:

- Alfriston (Scarp Slope)
- Amberley (Scarp Slope)
- Binsted (Western Weald)

- Buriton (Scarp Slope)
- Bury (Scarp Slope)
- Chawton (Western Downs)
- Cheriton (Western Downs)
- Cocking (Scarp Slope)
- Coldwaltham (Western Weald)
- Compton (Dip Slope)
- Ditchling (Scarp Slope)
- Droxford (Dip Slope)
- Easebourne (Western Weald)
- East Dean and Friston (Dip Slope)
- East Meon (Scarp Slope)
- Fernhurst (Western Weald)
- Findon (Dip Slope)
- Fittleworth (Western Weald)
- Funtington (Coastal Plain)
- Graffham (Scarp Slope)
- Greatham (Western Weald)
- Hambledon (Coastal Plain)
- Itchen Abbas (Western Downs)
- Kingston Near Lewes (Scarp Slope)
- Lavant (including East Lavant and Mid Lavant) (Coastal Plain)
- Lewes (Scarp Slope)
- Liss (including Liss Forest and West Liss) (Western Weald)
- Lodsworth (Western Weald)
- Lower and Upper Farringdon (Western Downs)
- Corhampton and Meonstoke (Dip Slope)
- Midhurst (Western Weald)
- Milland (Western Weald)
- Northchapel (Western Weald)
- Petersfield (Western Weald)
- Petworth (Western Weald)
- Poynings (Scarp Slope)
- Pyecombe (Dip Slope)
- Rodmell (Scarp Slope)
- Rogate (Western Weald)
- Selborne (Scarp Slope)
- Sheet (Western Weald)
- Singleton (Dip Slope)
- South Harting (West Sussex)
- Stedham (Western Weald)
- Steep (Scarp Slope)
- Stroud (Western Downs)
- Twyford (Dip Slope)
- Washington (Scarp Slope)
- Watersfield (Western Weald)
- West Ashling (Coastal Plain)
- West Meon (Scarp Slope)

2. The principle of development within the settlement policy boundaries as defined on the Policies Map will be supported provided that it complies with the other relevant policies, is of a scale and nature appropriate to the character and function of the settlement and is in compliance with the policy for the relevant Broad Area (policies SD4/CP Coastal Plain, SD4/DS Dip Slope, SD4/WD Western Downs, SD4/SS Scarp Slope and SD4/WW Western Weald).

3. Development proposals will **not** normally be permitted outside of settlement boundaries and the countryside will be protected in accordance with relevant policies in the Local Plan and national policy.

In exceptional circumstances, development in the open countryside will be permitted, where it is demonstrated to the satisfaction of the Authority that it is in accordance with the policy for the relevant Broad Area (policies SD4/CP Coastal Plain, SD4/DS Dip Slope, SD4/WD Western Downs, SD4/SS Scarp Slope and SD4/WW Western Weald), and:

- a) It is in accordance with Policy SD25 on rural exception sites, or
- b) It is in accordance with Policy SD27 on Sustaining the rural economy, or
- c) There is an essential need for a countryside location, or
- d) It is an appropriate reuse or redevelopment of an existing building(s).

4. Development proposals within estates and large farms that support appropriate diversification, which may not otherwise be considered acceptable outside of settlement boundaries, may be exceptionally considered suitable providing that they clearly meet the following criteria to the satisfaction of the Authority:

- a) The development proposals comply with other relevant policies and are part of a comprehensive Estate or Farm Plan that conserves and enhances the landscape; and
- b) The development proposals as part of an estate or farm plan deliver multiple benefits in line with the Purposes and Duty and the special qualities of the National Park and in regard to ecosystem services.

5. Small sites with the potential for development that are located within the National Park, but on the edge of settlements which are outside of the National Park, will only be allocated for development where they comply with other relevant policies.

6. The efficient and effective re-use of previously developed land will be encouraged, where appropriate, and in compliance with other relevant policies.

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 (May 2016)

2. Planning Inspectorate – Procedural Guidance – Enforcement Notice Appeals - England (March 2016)

These documents can also be found at:

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

ANNEX 6

THOSE PERSONS SERVED WITH THIS NOTICE

[REDACTED]

[REDACTED]

[REDACTED]