

## **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)

**Issued By: South Downs National Park Authority**

- 1. THIS IS A FORMAL NOTICE** which is issued by South Downs National Park Authority ("the SDNPA"), 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 SDNPA 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 along the 29B Bridleway, Old Racecourse, Lewes, East Sussex, BN7 shown in red on the attached plan.

#### **3. THE BREACH OF PLANNING CONTROL ALLEGED WITHOUT PLANNING PERMISSION**

- i) Without the benefit of planning permission the widening of approximately 450m (in length) of the public bridleway to a width of approximately 2.5m by cutting into the vegetated banks (by approximately 30cm deep) on either side classed as unauthorised development.
- ii) Without the benefit of planning permission the flattening of approximately 450m (in length) of the public bridleway by using spoil from the vegetated banks to infill and level-off, classed as unauthorised development.

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

South Downs National Park Authority, South Downs Centre, Midhurst, GU29 9DH  
Tel: 01730 814810 Email: [planning@southdowns.gov.uk](mailto:planning@southdowns.gov.uk)

The SDNPA considers that a breach of planning control has occurred within the last four (4) years without the benefit of planning permission and is unacceptable for the following reasons:

The development is inappropriate in the landscape context and fails to conserve or enhance the open downland character of this part of the National Park, contrary to policies SD1, SD4, SD5, SD6, SD9, SD12 and SD24 of the South Downs Local Plan, policies CT1, ST3, ST11, RE8 and LW9 of the Lewes District Local Plan, policies CP10 and CP11 of the Lewes Joint Core Strategy, the NPPF, and the first purpose of the National Park.

## 5. WHAT YOU ARE REQUIRED TO DO

You must –

- i) Re-grade and restore the earth banks to the same gradient that they were at prior to these works as shown in the photograph *Figure 2* (below). To mitigate the effect to the local ecosystem, these works should:
  - a) Be carried-out using hand tools only;
  - b) Ensure that Natural England's correct licensing procedure is followed, due to the local confirmed Great Crested Newt population;
  - c) Be supervised by a representative of the SDNPA.
- ii) Re-grade and restore the earth banks to the same gradient that they were at prior to these works as shown in the photograph *Figure 2* (below). To mitigate the effect to the local ecosystem, these works should:
  - a) Be carried-out using hand tools only;
  - b) Ensure that Natural England's correct licensing procedure is followed, due to the local confirmed Great Crested Newt population;
  - c) Be supervised by a representative of the SDNPA.



*Figure 1 (left): The bridleway after the unauthorised development.*

*Figure 2 (right): The bridleway before the unauthorised development, and how the banks should be restored to.*



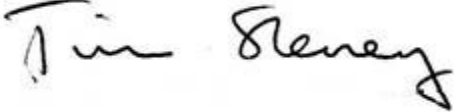
## **6. TIME FOR COMPLIANCE**

- i) One (1) month beginning with the day on which the notice was served on you.
- ii) One (1) month beginning with the day on which the notice was served on you.

## **7. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 23 April 2019 unless an appeal is made against it beforehand.

**Date: 26 March 2019**

**Signed:** 

**Tim Slaney (SDNPA Head of Planning)**  
**Nominated Officer:** Jack Trevelyan  
**Telephone Number:** 01730 814 810

## **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: <http://www.planningportal.gov.uk/uploads/pins/eninfosheet.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 at 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 £234; 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**

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

1. Conserve and enhance the natural beauty, wildlife and cultural heritage of the South Downs
2. Promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public

If there is a conflict between these two (2) purposes, conservation takes precedence. There is also a duty to foster the economic and social wellbeing of the local community in the pursuit of these purposes.

Paragraph 172 of the National Planning Policy Framework (NPPF) – Great weight should be given to conserving landscape and scenic beauty in the National Parks and conservation and enhance of wildlife should also be given great weight.

Paragraph 58 of the National Planning Policy Framework (NPPF) – Effective enforcement is important to maintain public confidence in the planning system.

Paragraph 8.12 of the SDNPA Enforcement Guide – The aim of negotiations is to result in one of the following: To cease an unauthorised use, to apply for retrospective planning permission where necessary.

The statutory development plan in this area is the Lewes District Local Plan (2003) and the Lewes District Joint Core Strategy (2016).

### **Lewes District Local Plan (2003)**

The relevant saved policies in the Lewes District Local Plan are:

- CT1 – Planning Boundary and Key Countryside
- ST3 – Design Form and Setting of Development
- ST11 – Landscaping of Development
- RE8 – Equestrian and Related Activities
- LW9 – Lewes Battlefield

## **Lewes District Joint Core Strategy (2016)**

The relevant policies in the Joint Core Strategy are:

CPI0 – Natural Environment and Landscape

CPI1 – Built and historic Environment and Design

### **South Downs Local Plan**

Strategic Policy SD1: Sustainable Development: When determining any planning application, the Authority will consider the cumulative impacts of development; Planning permission will be refused where development fails to conserve the landscape, natural beauty, wildlife and cultural heritage of the National Park.

Strategic Policy SD4: Landscape Character: Development proposals will only be permitted where they conserve and enhance landscape character.

Strategic Policy SD5 Design: Development proposals will only be permitted where they adopt a landscape-led approach and respect the local character; through sensitive and high quality design that makes a positive contribution to the overall character and appearance of the area.

Strategic Policy SD6: Safeguarding Views: Development proposals will only be permitted where they preserve the visual integrity, identity and scenic quality of the National Park, in particular by conserving and enhancing key views and within the National Park.

Strategic Policy SD12: Historic Environment: Development proposals will only be permitted where they conserve and enhance the historic environment.

Strategic Policy SD9: Biodiversity and Geodiversity Local Sites (Sites of Nature Conservation Importance): Development proposals that will result in any adverse effect on the integrity of any local site which cannot be either avoided or adequately mitigated will be refused, unless exceptional circumstances are demonstrated.

## **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]

