

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 the 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 all 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 East of Pony Farm, West Sussex, BN14 0RS, shown edged red on the attached plan ("the Land").

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

Without planning permission and within the last ten (10) years, the material change of use of the Land from equestrian by the importation and storage of waste materials on the Land.

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

It appears to the SDNPA that the above breach of planning control has occurred within the last ten (10) years, without the benefit of planning permission.

Officers were notified of the alleged clearance of the Land and the importation and storage of waste materials on 6 August 2018. The Land was visited and it was confirmed this had taken place.

An application for a Certificate of Lawful Use (existing) was submitted on 13 September 2019 for the following:

“Certificate of Lawfulness (Existing) – (i) the use of part of the property (including the buildings that have been erected on it) for the storage of building materials, plant and equipment (Use Class B8 as set out in the Town and Country Planning (Use Classes) Order 1987(as amended)); and (ii) the creation of hardstanding across part of the property in 2006.”

The SDNPA issued a split decision on 20 December 2019. The following being considered LAWFUL:

(ii) the creation of hardstanding across part of the property in 2006 is lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended).

The following being considered NOT LAWFUL:

(i) the use of part of the property (including buildings that have been erected on it) for the storage of building materials, plant and equipment (Use Class B8 as set out in the Town and Country Planning Use Classes) Order 1987 (as amended).

Following determination of the Certificate of Lawfulness (Existing), no attempt has been made by the landowner to clear the Land of the waste materials.

The unauthorised change of use of the Land for importation and storage of waste materials is unacceptable for the following reasons:

It is harmful to the landscape character of the locality, and fails to conserve and enhance the natural beauty, wildlife and cultural heritage of the area by virtue of the size and type of waste material imported. The unauthorised change of use of the Land has a harmful visual impact on the rural landscape of the area and public amenity (with regards to pollution).

The unauthorised change of use is contrary to:

- Paragraphs 117, 118, 170, 172, 174, 178 and 180 of the National Planning Policy Framework (2019);
- South Downs National Park Purposes 1 and 2;
- Policy 1 of the South Downs National Park Partnership Management Plan (2019)
- Policies W9, W11, W12, W13, W16, W18, W19 and W21 of the West Sussex Waste Local Plan (2014)
- Policies SD2, SD4, SD6, SD9, SD11, SD19, SD50, SD54 and SD55 of the South Downs Local Plan (2019)

For the reasons set out above the SDNPA consider it expedient to issue this Notice.

5. WHAT YOU ARE REQUIRED TO DO

- i) Cease the use of the Land for importation and storage of waste materials
- ii) Remove all imported waste materials from the Land through the correct waste disposal methods (and send copies of the completed Environment Agency Duty of Care Waste Transfer Note to the SDNPA)
- iii) Return the land levels of the Land to those prior to the importation of waste materials

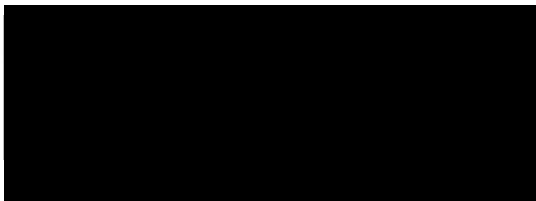
6. TIME FOR COMPLIANCE

- i) Six (6) months from the day this Notice takes effect.
- ii) Six (6) months from the day this Notice takes effect
- iii) Six (6) months from the day this Notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 21st April 2020 unless an appeal is made against it beforehand.

Date : 17th March 2020



Signed : Tim Slaney

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 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 £234 for each 0.1 hectare (or part thereof); 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

Paragraphs 117, 118, 170, 172, 174, 178 and 180 of National Planning Policy Framework (NPPF) (2019)

W9, W11, W12, W13, W16, W18, W19 and W21 of the West Sussex Waste Local Plan (2014)

SD2, SD4, SD9, SD11, SD19, SD50, SD54 and SD55 of the South Downs Local Plan (2019)

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 (March 2019)

2. Planning Inspectorate – Procedural Guidance – Enforcement Notice Appeals -
England
(February 2020)

These documents can also be found at: <https://www.gov.uk/appeal-enforcement-notice>

ANNEX 6

THOSE PERSONS SERVED WITH THIS NOTICE

