

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

BARNSELY METROPOLITAN BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the PLANNING AND COMPENSATION ACT 1991) ENFORCEMENT NOTICE

Issued by: Barnsley Metropolitan Borough Council ("the Council")

1. This is a formal notice which is issued by the Council, because it appears that there has been a breach of planning control, under Section 171A(1)(a) of the above Act at the land described below. It is considered 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 the notice and the enclosures to which it refers contain important additional information.

2. The land affected by the notice

Land on the East side of Cat Hill Lane, Hoylandswaine, S36 7GD. ("the Land") and shown edged red on the attached plan marked "EN1".

3. The breach of planning control alleged

Without planning permission; the carrying out of operational development under S55 Of the Town and Country Planning Act; namely engineering operations including excavations to alter the profile of the land and laying aggregate material.

4. Reason for issuing this notice

It appears to the Council that the breach of planning control listed in paragraph 3 above has occurred within the last four years.

The Land is located in designated Green Belt in the Barnsley Local Plan (2019). Heavy plant and machinery have been undertaking operations to the land to alter its appearance and profile. The profile of the land has been cut into and altered which effects its wider visual appearance and assimilation into the landscape.

The works that have been undertaken constitute operational development under section 55 of the Town and Country Planning Act 1990, for which planning permission is required. No planning permission has been sought or granted.

As outlined in the NPPF, Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is noted that engineering operations are not considered inappropriate development, but the operations do not appear to have justification and they harm the site and wider openness of the greenbelt. The Local Planning Authority is not aware of any very special circumstances which would be outweighed by other material considerations and therefore the development must be deemed inappropriate. The development also fails to preserve the openness of the green belt as the extent of the works are clearly visible from surrounding views.

Overall the unauthorised change of use fails to comply with the aims and objectives of policies; GB1 (Protection of Green Belt), Bio1 (Biodiversity & Geodiversity) and Poll1 (Pollution) in the Barnsley Local Plan 2019 and Guidance contained in the National Planning policy Framework (NPPF).

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

Appendix 1: Photographs showing the Unauthorised Development.

Appendix 2: Local Plan Policy GB1 Protection of Green Belt.

Appendix 3: Local Plan Policy Bio1 Biodiversity & Geodiversity

Appendix 4: Local Plan Policy Poll1 Pollution

5. What you are required to do

- (i) Remove all unauthorised materials in their entirety, ensuring that the land is restored to its original condition before the breach of planning control took place.

6. Timescales for compliance with the Enforcement Notice

- (i) For the requirements specified in part 5 above – ONE MONTH from the date the Notice takes effect.

7. When this notice takes effect

This notice takes effect on 18th November 2020 unless an appeal is made against it beforehand.

Dated: 19 October 2020

Signed: 

For and on behalf of

Barnsley Metropolitan Borough Council
Town Hall
Barnsley
S70 2TA

Ref: 2020\ENQ\00293

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal to the Secretary of State against this notice. An appeal must be made by giving written notice of the appeal to the Secretary of State before 18th November 2020 or by sending such notice to him in a properly addressed, pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before 18th November 2020.

If you decide to appeal this notice please send a copy of the appeal form which can be obtained from the Planning Inspectorate and any accompanying documentation to the Council at:

Head of Planning and Building Control
Barnsley Metropolitan Borough Council
Westgate Plaza One
PO Box 600
Barnsley
S70 9EZ

FAO Planning Enforcement

GROUND ON WHICH AN APPEAL MAY BE BROUGHT

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.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 18th November 2020 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 Council.

FEE PAYABLE

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. The full amount of the fee is payable to the Council as the Local Planning Authority.

You must also send £924 with your appeal form to Barnsley Metropolitan Borough Council (cheques made payable to "Barnsley M.B.C."). or contact the Council to make payment on 01226 772595 or via <https://wwwapplications.barnsley.gov.uk/payments>

WRITTEN STATEMENT SPECIFYING THE GROUNDS OF APPEAL

You should note that you must submit to the Secretary of State, either when giving notice of the appeal or within 14 days from the date on which the Secretary of State sends notice so requiring you, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

WHO IS THIS NOTICE SERVED ON?

Copies of the Enforcement Notice are being served on others who, it is understood, have interests in the land as listed below:

Mr James Peace, Cuckold Carr Farm, Gunthwaite, Penistone, Sheffield, S36 7GE.