

## The Planning Inspectorate

### ENFORCEMENT NOTICE APPEAL FORM (Online Version)

**WARNING:** The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

**Appeal Reference: APP/W0530/C/24/3349303**

#### A. APPELLANT DETAILS

Name Mr James Ball

Address Land to the South of Chear Fen Boat Club  
Twentypence Road  
Cottenham  
Cambridgeshire  
CB6 8PX

Preferred contact method

Email ☒ Post ☐

#### A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes ☐ No ☒

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☒ No ☐

Name Mr. Matthew Green

Company/Group Name Green Planning Studio Ltd

Address Unit D  
Lunesdale  
Shrewsbury  
Upton Magna  
SY4 4TT

Phone number 01743 709 364

Fax number 01743 709 385

Email appeals@gpsltd.co.uk

Your reference 21\_1161B

Preferred contact method

Email ☒ Post ☐

### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

South Cambridgeshire District Council

Date of issue of enforcement notice

18/07/2024

Effective date of enforcement notice

18/08/2024

### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

☒ No

☐

Address

Land to the South of Chear Fen Boat Club  
Twentypence Road  
Cottenham  
Cambridgeshire  
CB6 8PX

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

☐ No

☒

What is your/the appellant's interest in the land/building?

Owner

☐

Tenant

☐

Mortgagee

☐

None of the above

☒

Did you/the appellant occupy the land/building under a written or oral licence BOTH on the date the enforcement notice was issued AND on the date of making this appeal?

Yes

☒ No

☐

What is your/the appellant's involvement with the land/building?

Occupier

### E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

☐ No

☒

(a) That planning permission should be granted for what is alleged in the notice.

☐

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

☒

The facts are set out in

☒ the box below

Preliminary issues - Procedural matter

These grounds of appeal are submitted against an Enforcement Notice issued by South Cambridgeshire District Council on 18th July 2024 reference EN/00309/22A.

The Appellant is also appealing the refusal by South Cambridgeshire Council to issue a certificate of lawfulness under section 192 of the Town & Country Planning Act 1990 for 'for the use of land for the stationing of 2 mobile homes for residential purposes'. This was refused on 5th September 2022.

The Appellant is also appealing under s.78 against a refusal by South Cambridgeshire District Council of an application for planning permission for a 'a material change of use of land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use.' This was refused on 5th September 2022.

The Appellant is seeking that the three appeals, which all relate to the same land, are linked, so that they may be heard together, with evidence submitted to the same timetable.

Preliminary issue Section. 57 (4) Town and Country Planning Act 1990

It is important to make clear s 57 (4) Town and Country Planning Act applies. Even if the breach was found to have taken place, the appellant is entitled to revert to the previous lawful use, this will need to be established as a preliminary matter as the conclusion can affect Grounds B, D and F. The lawful fallback, its extent, and the area it covers are matters to be determined at the appeal.

#### Ground B

Firstly, the plan attached to the Enforcement Notice includes an area of land which is not part of the planning unit. Pasture land is included which runs around the functional plain of the river and is not used for the use of the alleged breach of planning control. This area needs to be removed from the Enforcement Notice.

Secondly, the Enforcement Notice alleges a change of use. A mere change of use is not a breach of planning control, it has to be a material change of use. It needs to be considered whether there has been a change of use, and, if so, whether that change of use constitutes a material change of use.

Reference will be made to the S195 appeal and the Lawful Development Certificate reference S/1346/16/LD dated the 11th October 2016 which confirms the lawfulness of the existing use of land for the siting of a residential mobile home.

Reference will also be made to Section 57(4) of the Town and Country Planning Act applies. The appellant is entitled to revert to the previous lawful use which would be one or more caravans used for residential purposes, either as a single use, or as a component of a mixed use on the site.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



The facts are set out in

☒ the box below

A lawful use certificate (reference S/1346/16/LD) for a mobile home applies to part of the site. Planning permission is therefore not required for this part of the site, to use the stationing of caravan(s) for residential occupation.

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



The facts are set out in

☒ the box below

Section 57(4) of the Town and Country Planning Act applies. Even if the breach was found to have taken place, the appellant is entitled to revert to the previous lawful use which would be either one or more caravans used for residential purposes, either as a single use, or as a component of a mixed use on the site. Photographic and witness evidence will be provided to substantiate the previous use of the

site and to establish that it was lawful through the passage of time.

Requirement (v) states: 'Permanently remove all hardstandings facilitating the material change of use of the Land and restore the ground levels to its previous condition.' The access with the highway and the access track running northwards into the site are clearly lawful through the passage of time. Photographic and witness evidence will be provided to substantiate this.

Requirement (vi) states 'Permanently remove all earth bunds facilitating the material change of use of the Land and restore the ground levels to its previous condition'. The bunds in question are clearly lawful through the passage of time. Photographic and witness evidence will be provided to substantiate this.

(e) The notice was not properly served on everyone with an interest in the land. ☐

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections. ☒

The facts are set out in

☒ the box below

Without prejudice to the aforementioned grounds, it will be shown that the requirements of the Enforcement Notice are excessive.

Requirements (i) requires the cessation of the land for the stationing of caravans for residential occupation. A LDC was granted on 11th October 2016 for one mobile home (reference S/1346/16/LD). Either this is lawful fallback; or two caravans for residential purposes are (if the s.195 appeal is upheld); or perhaps another lawful mixed use including one or more caravans used for residential purposes is the lawful use. In any event a lawful use for the stationing of caravans for residential use exists on part of the land and therefore requirement (i) is excessive and unenforceable as it seeks to prevent a lawful use on the site.

Requirements (v) and (vi) require the restoration of ground levels to its previous condition, but it is far from clear what the Council believe this is, or indeed and perhaps more pertinently, what they accept it lawfully is. Given the uncertainty, this requirement should be deemed excessive.

Requirement (v) requires the removal of 'all hardstandings facilitating the material change of use of the Land.' The access with the highway and the access track running northwards into the site are clearly lawful through the passage of time. In case the Council believes it can rely on *Murfitt v Secretary of State for the Environment* [1980] 40 P. & C.R. 254, reliance will be placed on *Secretary of State for Levelling Up, Housing and Communities v Ian Nivison Caldwell and Timberstore Limited*, [2024] EWCA Civ 467.

Requirement (vi) requires the removal of 'all earth bunds facilitating the material change of use of the Land'. These bunds, which are operational development, are lawful through the passage of time, being erected by previous occupiers of the land, to facilitate the previous use. In case the Council believes it can rely on *Murfitt v Secretary of State for the Environment* [1980] 40 P. & C.R. 254, reliance will be placed on *Secretary of State for Levelling Up, Housing and Communities v Ian Nivison Caldwell and Timberstore Limited*, [2024] EWCA Civ 467.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why. ☒

The facts are set out in

☒ the box below

The time for compliance is 3 months.

It will be demonstrated that a compliance period of at least 2 years is required to enable the occupiers living on the site to find alternative accommodation.

This will be demonstrated with reference to the scale of need for additional pitches in the district, the lack of a five-year supply of gypsy and traveller pitches, the lack of suitable, affordable, available and acceptable alternative sites and the LPA's ongoing failure of policy.

## F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

☐

2. Hearing

☐

3. Inquiry

☒

You must give detailed reasons below or in a separate document why you think an inquiry is necessary. The reasons are set out in

☒ the box below

A s195 appeal and a s78 appeal has already been submitted, relating to the same site and it is requested that all three appeals be linked. The time and witness estimates below relate to all 3 appeals, i.e. it is estimated that all appeals will take 9 days in total and a total (at this stage) of 16 witnesses are likely to be called (at least 7 professional and 9 lay witnesses).

The Inspector is likely to need to test the evidence by questioning or to clarify matters, the status or personal circumstances of the site occupants are at issue in the S78 appeal. Discussions will need to be had as to best interests of the child, human rights, need for pitches, character and appearance, sustainability and local policy etc. There will also be at least 6 professional witnesses called if no matters are conceded by the Council, providing evidence on contaminated land, ecology, highways, flooding, safeguarding of minerals, dust emissions, noise, need for sites etc. The Inspector is likely to want to discuss technical matters.

It is likely the Inspector will need to test the evidence by questioning or to clarify matters. There is a ground D in this EN appeal and evidence will be given on oath.

It is therefore considered that the issues in this appeal are sufficiently complex to warrant an inquiry, and that the hearing and written representations procedures would be ill-equipped as a mechanism to deal with these issues.

(a) How long do you estimate the inquiry will last?

9 day(s)

(b) How many witnesses do you intend to call?

16

(c) Is there any further information relevant to the inquiry which you need to tell us about?

Yes

☐ No

☒

## G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice?

Yes

☒ No

☐

a) the date of the relevant application

08/04/2022

b) the date of the LPA's decision (if any)

05/09/2022

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes ☒ No ☐

☒ the box below

A ground (a) is not pursued in this appeal due to changes in the legislation.

## H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes ☒ No ☐

Please give details, including our reference number(s), if known.

PINS REF: APP/W0530/X/22/3308443 and APP/W0530/W/22/3308444

## I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

☒ see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

☒ see 'Appeal Documents' section

## J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

**Signature**

Mr. Matthew Green

**Date**

01/08/2024 14:14:22

**Name**

Mr. Matthew Green

**On behalf of**

Mr James Ball

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

## K. NOW SEND

### Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:  
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

**You will not be sent any further reminders.**

Please ensure that anything you do send by post or email is clearly marked with the reference number.

### The documents listed below were uploaded with this form:

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 01. The Enforcement Notice.  
**File name:** EN 00309 22 Enforcement Notice final.pdf

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 02. The Plan.  
**File name:** EN 00309 22 EN PLAN.pdf

**Completed by** MR. MATTHEW GREEN

**Date** 01/08/2024 14:14:22