

From: Sam Grant
Sent: 28 October 2024 16:33
To: Edward Downing
Cc: Helen Williams
Subject: Frys Bottom - 23/00023/UNDEV
Attachments: OD1 Map.pdf; OD2 Map.pdf; OD3 Map.pdf; Operational Development - Building and engineering operations - OD2.pdf; Operational Development - House - OD1.pdf; Operational Development - Tracks and dams - OD3.pdf; Change of Use Notice - Front Storage yard - COU1.pdf; Change of Use Notice - Rest of Site - COU2.pdf; Map - COU1.pdf; Map - COU2.pdf; RE: Planning Enforcement - Frys Bottom

Dear Ed,

Further to our phone call last week the Council has been working through the planning enforcement issues at Fry's Bottom and the Council are now considering serving several planning enforcement notices that will cover the substantial unauthorised development and changes of use that have and are occurring within your clients land. Given the complexity of this case, the Council are taking the highly unusual step of sharing draft versions of the enforcement notices with your client prior to issue. This will give your client an opportunity to comment on their content and make representations regarding the breaches identified prior to issue.

There will be 5 notices covering the site and I have broken them down into two groups; Operational Development and Changes of use

Operational Development

Notice Ref OD1 – "Weigh Bridge House"

As stated in my emails regarding this building when your client submitted 23/03251/PIP, the Council consider this building to not be substantially complete due to; the building not being fit for habitation, very little or no service fitting thought the building, interior walls are unfinished without lining or plaster, interior spaces are unfished and lacking ceilings with roofing felt viable throughout most the 1st floor, window openings without glazing units and one element missing a gable end wall. As such, I consider the building to be a 'dwellinghouse in construction'. This approach was set out in an appeal (T/APP/U2235/C/99/10217450) which was challenged and quashed by the High Court and then finally the court decision was reversed by the House of Lords (Sage v SoS & Others 14/04/2003).

As the Council do not consider the development to be substantially completed, it is not immune from planning enforcement action and is currently unauthorised development.

You will note this notice requires the total demolition of the building. This is due to the Councils view that the building has been so extensively altered, the additions cannot be demolished without affecting the structural integrity of the original building.

Notice Ref OD2 – Construction of a new general purpose storage building (in the same location as the 'Forestry' building permitted by 22/03198/FUL and amended by 23/02618/NMA) and extensive engineering operations in the form of the expansion of the existing hardstanding.

The building currently on site has never been brought into its lawful use and is currently being used to store vehicles belonging to your client and ones associated with a local car mechanic. This has been confirmed on various site visits and in conversations with your client. In fact on a number of occasions to my manager and the local Parish Council, your client has said words to the effect of “why would I store logs in there, they would just rot”, this and other statements are in direct contradiction to the statements made during the planning application that the building was to be use for drying of logs produced from the site. As the building is not being used exclusively for agriculture/forestry, it is considered inappropriate development in the green belt.

Regarding the hardstanding, over recent years your client has been importing material and expanding the area of hardstanding that surrounds the building into the adjacent woodland. This can be seen on aerial photography and on the site itself with the most recent expansion involving the importation of broken tiles, all without the benefit of planning consent.

Notice Ref OD3 – Tracks and Dams

This notice is relating to the extensive tracks and dams that have been built throughout your clients land.

The tracks throughout the woodland are of a scale that cannot be justified (with some being several metres across) and have been constructed with a materials that are not considered appropriate to be used within an SNCI.

With regard to the dams, these have also been constructed without planning permission (it is acknowledged that one is immune from enforcement action) and materially impact on the openness of the green belt. In addition, the Council do not know what materials were used in their construction and if they have resulted in the damage to an SNCI. Finally, as the site sits atop of a former coal mining area and the Council cannot be satisfied that the introduction of thousands of tonnes of water, would not have a detrimental impact on the stability of the surrounding area.

Change of use

Notice Ref COU1 – Front storage yard

This notice is regarding the use of the front storage yard as open storage.

The Council have been clear with your client that he should submit a certificate of lawful development application as he believes the use of this land as open storage is lawful. Despite over a year passing since first discussing this with your client, an application has not been forthcoming. In addition to this, you client keeps introducing new uses onto this site potentially starting a new chapter in the use every time a new use commences.

Notice Ref COU2 – Rest of Site

This notice is regarding the mixed use of the site as of forestry, open air storage, firewood production, motorbike trials practice and a waste transfer site.

You will note that the breach contains motorbike trails practice. As stated in my email to Helen Williams dated 28/10/2024 (see attached), the Council now consider the land does not benefit from the rights granted by Schedule 2, part 4, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore the use of the land for this activity is a breach of planning control.

With regards to the fire wood production, your client has provided a statement regarding the use of the site for firewood production, but this did not prove that this use has been continuous for a period in excess of 10 years to the satisfaction of the Council.

In recent weeks your client has been renting out the land to store skips and on a number of occasions these skips have entered the land full of waste, therefore it is considered the site is now also in use as a waste transfer site.

Finally, regarding the open storage element, your client has been storing vehicles and skips on the land, without the benefit of planning permission.

Summary

Given the complexity of this case, the Council have taken the unusual step of sharing drafts of the enforcement notices it intends to serve so to give your client the opportunity to comment on their content. The Council would request that any representations your client wishes to make on the attached notices, is received by the Council within 2 weeks from today (11th November 2024). Should your client wish to meet with me and Neil to discuss the notices, we are happy to do this, but we would request that written representations are made to the Council prior to any meeting taking place.

If you have any questions regarding the above, please let me know.

Kind regards,

Sam Grant MPlan MRTPI

Senior Planning & Enforcement Officer
Development Management
Bath & North East Somerset Council
Email: Sam_Grant@bathnes.gov.uk
Phone: 01225 477480
www.bathnes.gov.uk
www.twitter.com/bathnes

****Please note: We are currently experiencing a significant increase in workload in the Enforcement Team which is having an impact on our ability to respond within our published service standard timescales. We are having to prioritise cases and workloads carefully and whilst we will review each case and query received, it may take longer than usual to respond****

Improving People's Lives



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RTPI (SW) Planning Authority of the Year 2023 - Winner
 RTPI (SW) Award for Planning Excellence 2023 – Winner
 RTPI (SW) Award for planning Excellence 2024 - Shortlisted

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE – 23/00023/UNDEV/OD1

Issued by: Bath and North East Somerset Council (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them 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. They consider 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 THIS NOTICE RELATES

The Weigh Bridge House, Fry's Bottom, Chelwood, Bristol (hereafter known as “the Land”). Outlined in Red on the attached plan.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without Planning Permission, the construction of a dwelling house

4. REASONS FOR ISSUING THE NOTICE

The Council considers it expedient to carry out enforcement action and issue an enforcement notice for the following reasons:

- 4.1 It appears to the Local Planning Authority that the breach of planning control, as described under section 3 of the Notice, had not been substantially completed and may not therefore be deemed to be immune from enforcement action under Part VII, section 171B of the Town and Country Planning Act 1990 (as amended).
- 4.2 The dwelling is outside of a defined housing development boundary and situated within the Bristol and Bath Green Belt. Given it has not been identified as an

essential dwelling for a rural worker, it is considered to be inappropriate development. Therefore, the principle for development is unacceptable, and the proposal is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, policy GB1, RA1, and RE4 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.

- 4.3 The Council has insufficient information to give confidence that an appropriate net gain of biodiversity could be achieved on site, contrary to policy NE3a of the Local Plan Partial Update 2023
- 4.4 The Council has does not have sufficient information regarding the treatment of Foul Sewage produced by the unauthorised development and use. As such, the development is contrary to Policy PCS7A of the Bath And Nort East Somerset Placemaking Plan and Policy CNP7 of the Clutton Neighbourhood Plan.
- 4.5 The Council has insufficient information to demonstrate the development is in compliance with the requirements of Sustainable Construction for New Residential Development Policy SCR6 of the Local Plan Partial Update 2023 and Policy CNP5 of the Clutton Neighbourhood Plan.
- 4.6 The development, located remote from services, employment opportunities, with limited potential of using active travel or public transport to make most journeys, is contrary to the key aims of Policy ST1 and ST7 of the Bath & North East Somerset Local Plan Partial Update and the National Planning Policy Framework, which seek to ensure that developments are well connected and located to facilitate the use of sustainable modes of transport. The proposal is therefore considered to be contrary to Policies ST1, ST7 of the Bath & North East Somerset Local Plan Partial Update, and the National Planning Policy Framework, which seeks to provide safe, convenient and inclusive access to development sites.
- 4.7 The Council has insufficient information to give confidence that the dwelling has been provided with superfast broadband infrastructure to enable superfast broadband provision, contrary to Policy PCS7A of the Bath and North East Somerset Councils Placemaking Plan and Policy CNP4 of the Clutton Neighbourhood Plan.
- 4.8 The Council has insufficient information to give confidence that the development has not caused any damage to a designed Site of Nature Conservation Interest (SNCI) and to demonstrate the protection of protected species (Bats). As a result, the development is contrary to the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), the NPPF, Policy NE3 of the Local Plan Partial Update and Policy CNP15 of the Clutton Neighbourhood Plan.

- 4.9 The Council has insufficient information to give confidence that the development meets the Building Regulations requirement for water efficiency of 110 litres per person per day. As such the proposal is contrary to Policy SCR5 of the Bath and North East Somerset Placemaking Plan.
- 4.10 The unauthorised development is located within a Coal Mining Referral area of high development risk. The Council has insufficient information to give confidence that the site is capable of being developed without adversely affecting the stability of the land subject to this notice and any neighbouring land. As such, the development is contrary to Policy PCS6 of the Bath and North East Somerset Placemaking Plan.
- 4.11 The harm to the Green Belt and the other harms identified are not clearly outweighed by any other considerations weighing in favour of the development, and consequently the very special circumstances needed to justify the development have not been found to exist.

5. WHAT YOU ARE REQUIRED TO DO

Requirement 1: Demolish the buildings on the land and remove all resultant materials from the land. (for the avoidance of doubt, this does not require the demolition of the stables)

6. TIME FOR COMPLIANCE

Requirement 1: 4 Months

7. THIS NOTICE TAKES EFFECT

Dated:

Signed:

On behalf of: Bath and North East Somerset Council

Address to which all communications should be sent:

Planning Services - Planning Enforcement

Bath & North East Somerset Council

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 394041

Email: Planning_Enforcement@bathnes.gov.uk

DRAFT

EXPLANATORY NOTE

YOU'RE RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at the Planning Inspectorate) against this Enforcement Notice.

If you appeal against this Notice, any appeal must be received or posted in time to be received by the Secretary of State BEFORE the date this Notice takes effect.

Unless an appeal is made, as described below, the Enforcement Notice will take effect on the date specified in paragraph 7 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the Notice.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Lodging your appeal

Any appeal to the Secretary of State must be made in writing. Enclosed is an information sheet from the Planning Inspectorate which provides further information on how to obtain appeal forms and lodge an appeal.

As mentioned above, the appeal must be submitted in good time so that it is received by the Secretary of State BEFORE the date on which the Enforcement Notice takes effect.

Grounds of 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 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.
- (c) That there has not been a breach of planning control
- (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.
- (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.
- (g) The time given to comply with the notice is too short.

Please be aware that not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of appeal. 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.

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of **£1156** to the Local Planning Authority (payable to Bath and North East Somerset Council). Joint appellants need only pay one set of fees.

The fee is double that which would be payable for a corresponding planning application that was made at the time the enforcement notice was issued, as set out in regulation 10(3) of the 2012 Fees Regulations.



The Planning Inspectorate

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

Direct Line 0303-444 5000

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or

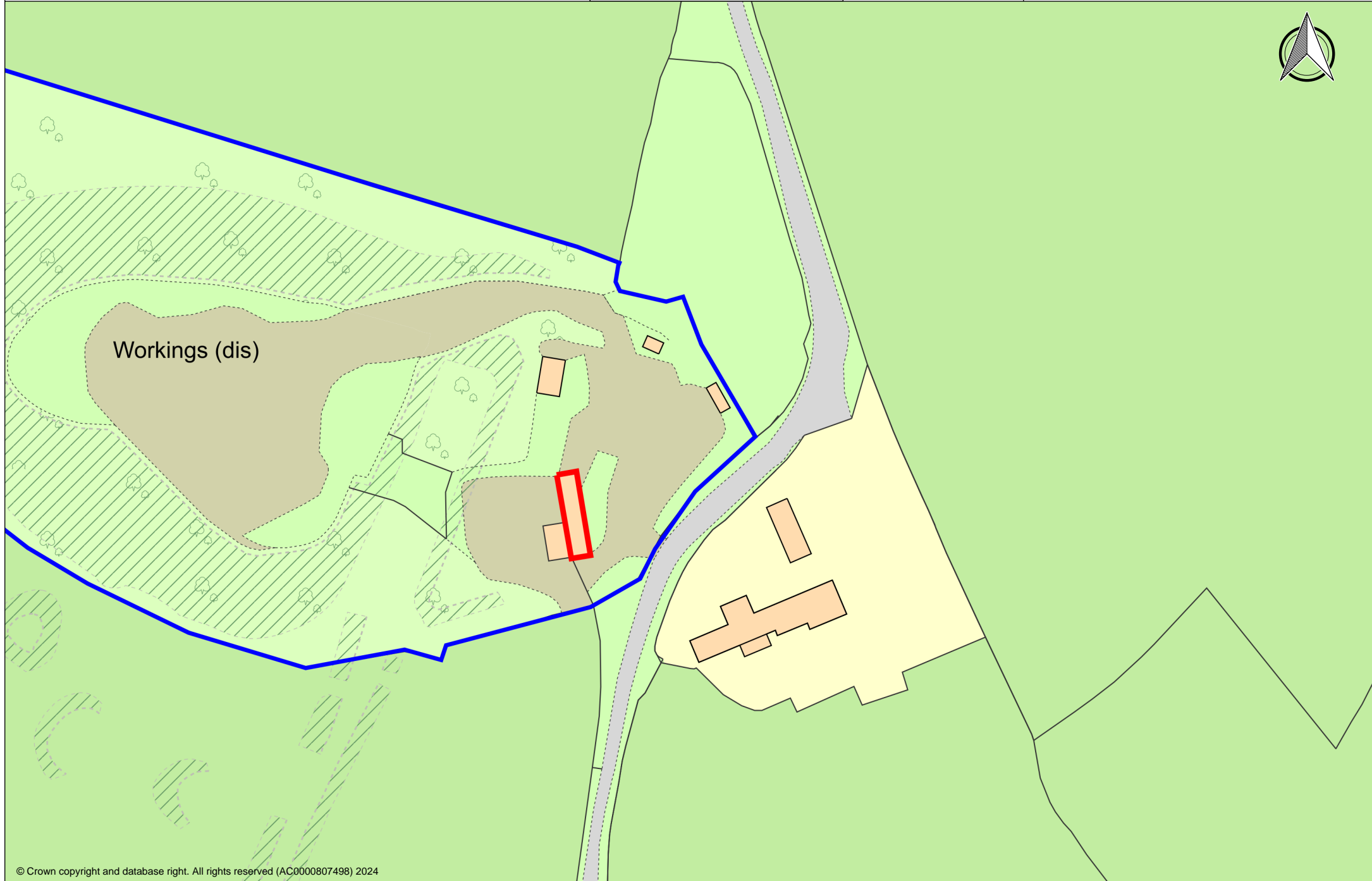
by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us enquiries@planninginspectorate.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We **MUST** receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE – 23/00023/UNDEV/OD2

Issued by: Bath and North East Somerset Council (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them 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. They consider 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 THIS NOTICE RELATES

Fry's Bottom, Chelwood, Bristol (hereafter known as “the Land”). Outlined in Red on the attached plan

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

1. Without Planning Permission, the construction of a non-agricultural storage building in the approximate location marked ‘A’ on the attached plan.
2. Without Planning Permission, the importation of material and carrying out of Engineering Operations in the form of the expansion of a level area of hardstanding.

3. REASONS FOR ISSUING THE NOTICE

The Council considers it expedient to carry out enforcement action and issue an enforcement notice for the following reasons:

- 4.1 It appears to the Local Planning Authority that the breaches of planning control, as described under section 3 of the Notice, are not substantially completed and may

not therefore be deemed to be immune from enforcement action under Part VII, section 171B of the Town and Country Planning Act 1990 (as amended).

- 4.2 The site is located within the Green Belt and the construction of a new storage building does not fall within any of the exceptions at paragraphs 154 or 155 of the NPPF. Consequently, the building represents inappropriate development in the green belt and is, by definition, harmful to the green belt. Therefore, the principle for development is unacceptable, and the development is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, and Policy GB1 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.
- 4.3 The unauthorised engineering operations are situated within the Green Belt. By reason of their large and un-natural form, they fail to preserve the openness of the green belt and would result in inappropriate development. Therefore the principle for development is unacceptable, and the proposal is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, policy GB1 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.
- 4.4 The Council has insufficient information to give confidence that an appropriate net gain of biodiversity could be achieved on site, contrary to policy NE3a of the Local Plan Partial Update 2023.
- 4.5 The Council has insufficient information to give confidence that the development and the use of inappropriate materials has not caused any damage to a designed Site of Nature Conservation Interest (SNCI) and Priority Habitat (Lowland Mixed Deciduous Woodland). As a result, the development is contrary to the Natural Environment and Rural Communities Act 2006 (NERC), the NPPF, Policy NE3 of the Local Plan Partial Update and Policy CNP15 of the Clutton Neighbourhood Plan.
- 4.6 The Council has insufficient information to give confidence that the development has not caused any adverse impact on trees and woodlands of wildlife. As such the proposal is contrary to Policy NE6 of the Local Plan Partial Update 2023.
- 4.7 The Council has insufficient information to confirm the development would not result in increased surface water runoff and that it would not contribute to flood risks elsewhere. The development is therefore contrary to Policy CP5 of the Bath and North East Somerset Core Strategy.
- 4.8 The unauthorised engineering operations, by virtue of the un-natural landforms and the use of inappropriate materials, do not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. As

such it is contrary to policies NE2 of the Local Plan Partial Update, Policy D2 and NE2A of the BANES Placemaking Plan and the NPPF.

- 4.9 The unauthorised development is located within a Coal Mining Referral area of high development risk. The Council has insufficient information to give confidence that the site is capable of being developed without adversely affecting the stability of the land subject to this notice and any neighbouring land. As such, the development is contrary to Policy PCS6 of the Bath and North East Somerset Placemaking Plan.
- 4.10 The Council has insufficient information to given confidence that:
- 1) the development does not cause significant harm or risk of significant harm to health or the environment or cause pollution of any watercourse, water body or aquifer
 - 2) remediation measures are put in place as appropriate, and
 - 3) any identified potential harm can be suitably mitigated
- The development is contrary to policy PCS5 of the Bath and North East Somerset Local Plan Partial Update 2023.
- 4.11 The harm to the Green Belt and the other harms identified are not clearly outweighed by any other considerations weighing in favour of the development, and consequently the very special circumstances needed to justify the development have not been found to exist.

4. WHAT YOU ARE REQUIRED TO DO

Requirement 1: Demolish the building shaded in YELLOW and labelled A on the attached plan and remove all resultant materials from the land.

Requirement 2: Remove all engineered land forms, together with their constituent deposited material, from “the land”, and restore “the land” to its previous condition prior to the unauthorised development taking place.

5. TIME FOR COMPLIANCE

Requirement 1: 4 Months

Requirement 2: 6 Months

6. THIS NOTICE TAKES EFFECT

Dated:

Signed:

On behalf of: Bath and North East Somerset Council

Address to which all communications should be sent:

Planning Services - Planning Enforcement

Bath & North East Somerset Council

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 394041

Email: Planning_Enforcement@bathnes.gov.uk

EXPLANATORY NOTE

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Lodging your appeal

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As mentioned above, the appeal must be submitted in good time so that it is received by the Secretary of State BEFORE the date on which the Enforcement Notice takes effect.

Grounds of 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 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.
- (c) That there has not been a breach of planning control
- (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.**
- (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.
- (g) The time given to comply with the notice is too short.

Please be aware that not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of appeal. 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.

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of **£1156** to the Local Planning Authority (payable to Bath and North East Somerset Council). Joint appellants need only pay one set of fees.

The fee is double that which would be payable for a corresponding planning application that was made at the time the enforcement notice was issued, as set out in regulation 10(3) of the 2012 Fees Regulations.



The Planning Inspectorate

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

Direct Line 0303-444 5000

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- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or

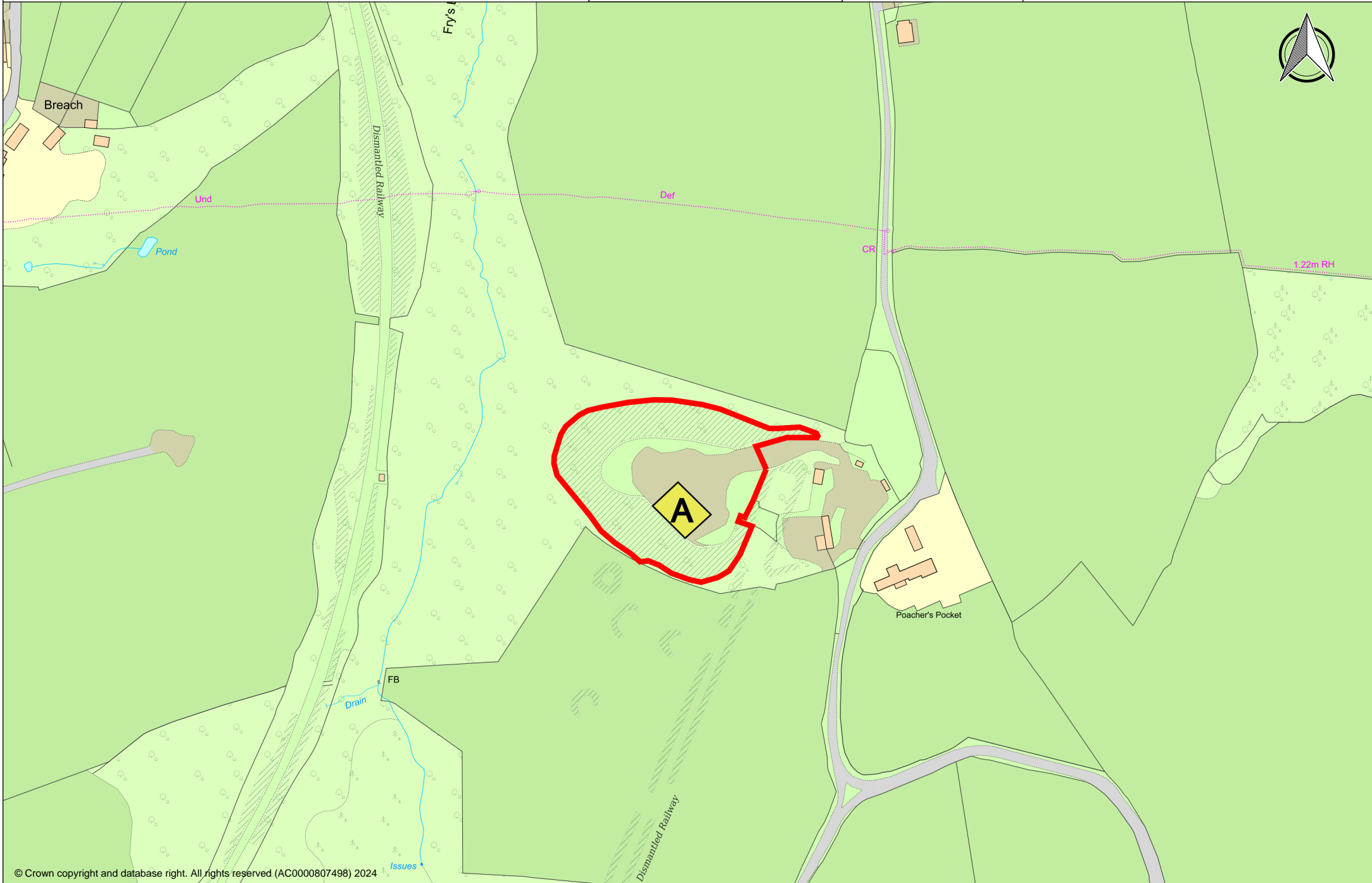
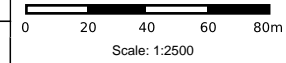
by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us enquiries@planninginspectorate.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We **MUST** receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE – 23/00023/UNDEV/OD3

Issued by: Bath and North East Somerset Council (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them 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. They consider 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 THIS NOTICE RELATES**

Fry's Bottom, Chelwood, Bristol (hereafter known as “the Land”). Outlined in Red on the attached plan

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without Planning Permission, the importation of material and carrying out of Engineering Operations in the form of the construction of access tracks, and construction of dams in a water course.

1. **REASONS FOR ISSUING THE NOTICE**

The Council considers it expedient to carry out enforcement action and issue an enforcement notice for the following reasons:

- 4.1 It appears to the Local Planning Authority that the breach of planning control, as described under section 3 of the Notice, has not been substantially completed for a period in excess of 4 years and may not therefore be deemed to be immune from enforcement action under Part VII, section 171B of the Town and Country Planning Act 1990 (as amended).

- 4.2 The unauthorised development is situated within the Bristol and Bath Green Belt. By reason of their large and un-natural and over-engineered form they will result in inappropriate development given that they constitutes engineering operations which fail to preserve the openness of the Green Belt. Therefore, the principle for development is unacceptable, and the proposal is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, policy GB1 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.
- 4.3 The Council has insufficient information to give confidence that an appropriate net gain of biodiversity could be achieved on site, contrary to policy NE3a of the Local Plan Partial Update 2023
- 4.4 The Council has insufficient information to give confidence that the development and the use of inappropriate materials has not caused any damage to a designed Site of Nature Conservation Interest (SNCI) and Priority Habitat (Lowland Mixed Deciduous Woodland). As a result, the development is contrary to the Natural Environment and Rural Communities Act 2006 (NERC), the NPPF, Policy NE3 of the Local Plan Partial Update and Policy CNP15 of the Clutton Neighbourhood Plan.
- 4.5 The Council has insufficient information to give confidence that the development and use has not caused any adverse impact on trees and woodlands of wildlife. As such the proposal is contrary to Policy NE6 of the Local Plan Partial Update 2023.
- 4.6 1The unauthorised engineering operations, by virtue of the un-natural landforms, the use of inappropriate materials and their size, do not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. As such it is contrary to policies NE2 of the Local Plan Partial Update, Policy D2 and NE2A of the BANES Placemaking Plan and the NPPF.
- 4.7 The Council has insufficient information to confirm the development would not result in increased surface water runoff and that it would not contribute to flood risks elsewhere. The development is therefore contrary to Policy CP5 of the Bath and North East Somerset Core Strategy.
- 4.8 The unauthorised development is located within a Coal Mining Referral area of high development risk. The Council has insufficient information to give confidence that the site is capable of being developed without adversely affecting the stability of the land subject to this notice and any neighbouring land. As such, the development is contrary to Policy PCS6 of the Bath and North East Somerset Placemaking Plan.

- 4.9 The Council has insufficient information to give confidence that:
- 1) the development does not cause significant harm or risk of significant harm to health or the environment or cause pollution of any watercourse, water body or aquifer
 - 2) remediation measures are put in place as appropriate, and
 - 3) any identified potential harm can be suitably mitigated
- The development is contrary to policy PCS5 of the Bath and North East Somerset Local Plan Partial Update 2023.
- 4.10 The harm to the Green Belt and the other harms identified are not clearly outweighed by any other considerations weighing in favour of the development, and consequently the very special circumstances needed to justify the development have not been found to exist.

2. WHAT YOU ARE REQUIRED TO DO

Requirement 1: Remove the engineering operations, comprising access tracks and dams (with the exception of the dam in the approximate location marked by the BLUE line on the attached map) and remove all resultant materials from the land.

Requirement 2: Restore the land to its condition prior to the Breach of Planning Control specified in Part 3 of this Notice occurring.

3. TIME FOR COMPLIANCE

Requirement 1: 4 Months

Requirement 2: 6 Months

4. THIS NOTICE TAKES EFFECT

Dated:

Signed:

On behalf of: Bath and North East Somerset Council

Address to which all communications should be sent:

Planning Services - Planning Enforcement

Bath & North East Somerset Council

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 394041

Email: Planning_Enforcement@bathnes.gov.uk

EXPLANATORY NOTE

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Lodging your appeal

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Grounds of 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 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.
- (c) That there has not been a breach of planning control
- (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.
- (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.
- (g) The time given to comply with the notice is too short.

Please be aware that not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of appeal. 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.

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of **£5070** to the Local Planning Authority (payable to Bath and North East Somerset Council). Joint appellants need only pay one set of fees.

The fee is double that which would be payable for a corresponding planning application that was made at the time the enforcement notice was issued, as set out in regulation 10(3) of the 2012 Fees Regulations.



The Planning Inspectorate

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

Direct Line 0303-444 5000

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- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or

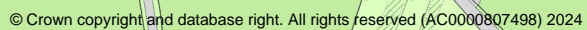
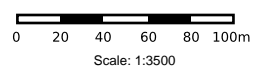
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You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE – 23/00023/UNDEV/COU1

Issued by: Bath and North East Somerset Council (“the Council”)

- 1. THIS NOTICE** is issued by the Council because it appears to them 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. They consider 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 THIS NOTICE RELATES

Fry's Bottom, Chelwood, Bristol (hereafter known as “the Land”). Outlined in Red on the attached plan.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without Planning Permission, the change of use of land from forestry to a mixed use consisting of forestry, open air storage, a waste transfer site and associated structure (circled in red in Image 1 attached to this notice).

4. REASONS FOR ISSUING THE NOTICE

The Council considers it expedient to carry out enforcement action and issue an enforcement notice for the following reasons:

- 4.1** It appears to the Local Planning Authority that the breach of planning control, as described under section 3 of the Notice, has not occurred for a period in excess of 10 years and may not therefore be deemed to be immune from enforcement action under Part VII, section 171B of the Town and Country Planning Act 1990 (as amended).

- 4.2 The unauthorised use is situated within the Green Belt, where material changes of use are capable of being appropriate development provided that they preserve openness and do not conflict with the purposes of including land within it. The array of caravans, vehicles, shipping containers and other chattels being stored, together with all the associated paraphernalia, significantly erode the openness of the Green Belt, and therefore would result in inappropriate development. The development further harms the visual amenity of the Green Belt. Therefore, the principle of development is unacceptable, and the change of use is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, and Policy GB1 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.
- 4.3 The Council does not have sufficient information to demonstrate the unauthorised does not result in the introduction of traffic of excessive volume onto an unsuitable road system, that could prejudice the highway safety of the surrounding road network. Therefore, the proposal is contrary to Policy ST7 of the Local Plan Partial Update.
- 4.4 T The Council has insufficient information to give confidence that the unauthorised use has not caused any damage and will not cause further damage to a designated Site of Nature Conservation Interest (SNCI) and Priority Habitat (Lowland Mixed Deciduous Woodland). As a result, the development is contrary to the Natural Environment and Rural Communities Act 2006 (NERC), the NPPF, Policy NE3 of the Local Plan Partial Update and Policy CNP15 of the Clutton Neighbourhood Plan.
- 4.5 The Council has insufficient information to give confidence that the development has not caused any adverse impact on trees and woodlands of wildlife. As such the proposal is contrary to Policy NE6 of the Local Plan Partial Update 2023.
- 4.6 The noise generated by the unauthorised use (open storage), by reason of its proximity to neighbouring residents and the noise generated, has resulted in the increase in the noise and perceived disturbance of the site. This is causing a significant adverse impact and significant harm to the residential amenities of the neighbouring occupiers, Contrary to Policy D6 of the Bath and North East Somerset Placemaking Plan.
- 4.7 The unauthorised change of use does not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. As such it is contrary to policies NE2 of the Local Plan Partial Update, Policy D2 and NE2A of the BANES Placemaking Plan and the NPPF.

4.8 The Council has insufficient information to give confidence that the authorised use:

a) does not give rise to polluting emissions which have an unacceptable adverse impact on air quality, health, the natural (in particular designated wildlife sites) or built environment or local amenity of existing or proposed uses from air polluting activities, or

b) is not located where it would be at unacceptable risk from, or be adversely affected by existing sources of odour, dust and /or other forms of air pollution

As such the development is contrary to Policy PCS3 of the Bath North East Placemaking Plan.

4.9 The Council has insufficient information to give confidence that:

1) the development does not cause significant harm or risk of significant harm to health or the environment or cause pollution of any watercourse, water body or aquifer

2) remediation measures are put in place as appropriate, and

3) any identified potential harm can be suitably mitigated

Contrary to policy PCS5 of the Bath and North East Somerset Local Plan Partial Update 2023.

4.10 The harm to the Green Belt and the other harms identified are not clearly outweighed by any other considerations weighing in favour of the development, and consequently the very special circumstances needed to justify the development have not been found to exist.

5. WHAT YOU ARE REQUIRED TO DO

Requirement 1: Cease the use of the land as mixed use consisting of forestry, open air storage and a waste transfer site. (For the avoidance of doubt, this requirement does not require the cessation of the use of the land as Forestry).

Requirement 2: Remove all items stored on the land not relating to its lawful forestry use (including but not limited to Caravans, shipping containers, Vehicles, chattels).

Requirement 3: Remove the wooden structure circled in red in Image 1 attached to this notice and remove the resultant materials from the land.

Requirement 4: Restore the land to its previous condition prior to the breach specified in part 3 of this notice took place.

6. TIME FOR COMPLIANCE

Requirement 1, 2 & 3: 6 Months

7. THIS NOTICE TAKES EFFECT

Dated:

Signed:

On behalf of: Bath and North East Somerset Council

Address to which all communications should be sent:

Planning Services - Planning Enforcement

Bath & North East Somerset Council

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 394041

Email: Planning_Enforcement@bathnes.gov.uk

EXPLANATORY NOTE

YOU'RE RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at the Planning Inspectorate) against this Enforcement Notice.

If you appeal against this Notice, any appeal must be received or posted in time to be received by the Secretary of State BEFORE the date this Notice takes effect.

Unless an appeal is made, as described below, the Enforcement Notice will take effect on the date specified in paragraph 7 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the Notice.

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Lodging your appeal

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Grounds of 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 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.
- (c) That there has not been a breach of planning control
- (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.
- (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.
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Please be aware that not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of appeal. 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.

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of **£1156** to the Local Planning Authority (payable to Bath and North East Somerset Council). Joint appellants need only pay one set of fees.

The fee is double that which would be payable for a corresponding planning application that was made at the time the enforcement notice was issued, as set out in regulation 10(3) of the 2012 Fees Regulations.



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You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

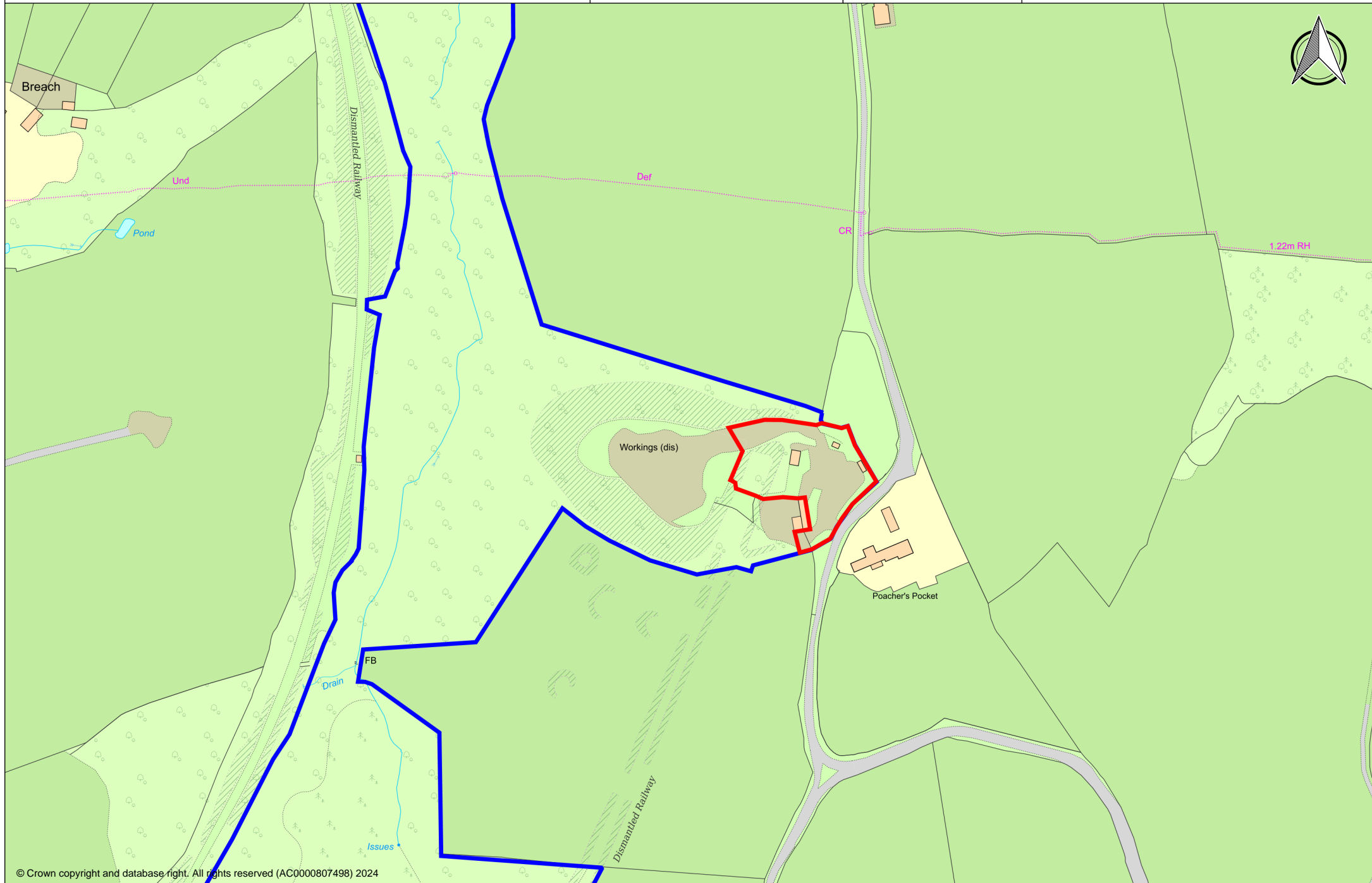
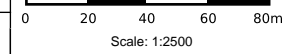
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- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

Image 1





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**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991)**

ENFORCEMENT NOTICE – 23/00023/UNDEV/COU2

Issued by: Bath and North East Somerset Council (“the Council”)

- 1. THIS NOTICE** is issued by the Council because it appears to them 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. They consider 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 THIS NOTICE RELATES

Fry's Bottom, Chelwood, Bristol (hereafter known as “the Land”). Outlined in Red on the attached plan

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without Planning Permission, the change of use of land from forestry to a mixed use consisting of forestry, open air storage, firewood production, motorbike trials practice and a waste transfer site.

4. REASONS FOR ISSUING THE NOTICE

The Council considers it expedient to carry out enforcement action and issue an enforcement notice for the following reasons:

- 4.1** It appears to the Local Planning Authority that the breach of planning control, as described under section 3 of the Notice, has not occurred for a period in excess of 10 years and may not therefore be deemed to be immune from enforcement action under Part VII, section 171B of the Town and Country Planning Act 1990 (as amended).

- 4.2 The unauthorised use is situated within the Green Belt, where material changes of use are capable of being appropriate development provided that they preserve openness and do not conflict with the purposes of including land within it. Stored skips and vehicles on the land, together with all the activity and associated paraphernalia of the wider use significantly erode the openness of the Green Belt, and fails to safeguard the countryside from encroachment, and therefore would result in inappropriate development. The development further harms the visual amenity of the Green Belt. Therefore, the principle of development is unacceptable, and the change of use is contrary to policy CP8 and DW1 of the Bath and North East Somerset Core Strategy, and Policy GB1 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.
- 4.3 The Council does not have sufficient information to demonstrate the unauthorised use does not result in the introduction of traffic of excessive volume onto an unsuitable road system, that could prejudice the highway safety of the surrounding road network. Therefore, the proposal is contrary to Policy ST7 of the Local Plan Partial Update.
- 4.4 The Council has insufficient information to give confidence that the unauthorised use has not caused any damage and will not cause further damage to a designed Site of Nature Conservation Interest (SNCI) and Priority Habitat (Lowland Mixed Deciduous Woodland). As a result, the development is contrary to the Natural Environment and Rural Communities Act 2006 (NERC), the NPPF, Policy NE3 of the Local Plan Partial Update and Policy CNP15 of the Clutton Neighbourhood Plan.
- 4.5 The Council has insufficient information to give confidence that the unauthorised use has not caused and will not cause any adverse impact on trees and woodlands of wildlife. As such the proposal is contrary to Policy NE6 of the Local Plan Partial Update 2023.
- 4.6 The noise generated by the unauthorised use (unfettered storage use, the use of the site as a motorbike trails practice site and for firewood production), by reason of its proximity to neighbouring residents and the noise generated, has resulted in the increase in the noise and perceived disturbance of the site. This is causing a significant adverse impact and significant harm to the residential amenities of the neighbouring occupiers, Contrary to Policy D6 of the Bath and North East Somerset Placemaking Plan.
- 4.7 The unauthorised change of use does not contribute or respond to the local context and does not maintain the character and appearance of the surrounding area. As such it is contrary to policies NE2 of the Local Plan Partial Update, Policy D2 and NE2A of the BANES Placemaking Plan and the NPPF.

- 4.8 The Local Planning Authority has insufficient information to demonstrate that that unauthorised use has not and would not significantly adversely affect people, land, infrastructure, resources and the environment. As such, the development is contrary to Policy 12 of the West of England Joint Core Wase Strategy 2011.
- 4.9 The Council has insufficient information to give confidence that the authorised use:
- a) does not give rise to polluting emissions which have an unacceptable adverse impact on air quality, health, the natural (in particular designated wildlife sites) or built environment or local amenity of existing or proposed uses from air polluting activities, or
 - b) is not located where it would be at unacceptable risk from, or be adversely affected by existing sources of odour, dust and /or other forms of air pollution
- As such the development is contrary to Policy PCS3 of the Bath North East Placemaking Plan.
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- Contrary to policy PCS5 of the Bath and North East Somerset Local Plan Partial Update 2023.
- 4.11 The harm to the Green Belt and the other harms identified are not clearly outweighed by any other considerations weighing in favour of the development, and consequently the very special circumstances needed to justify the development have not been found to exist.

5. WHAT YOU ARE REQUIRED TO DO

Requirement 1: Cease the use of land for the mixed use consisting of forestry, open air storage, firewood production, motorbike trials practice and a waste transfer site. (For the avoidance of doubt, this requirement does not require the cessation of the use of the land as Forestry)

Requirement 2: Remove all items stored on the land not relating to its lawful forestry use (including but not limited to Vehicles, Skips and waste).

Requirement 3: Restore the land to its previous condition prior to the breach specified in part 3 of this notice took place.

6. TIME FOR COMPLIANCE

Requirement 1, 2: 2 Months

Requirement 3: 3 Months

7. THIS NOTICE TAKES EFFECT

Dated:

Signed:

On behalf of: Bath and North East Somerset Council

Address to which all communications should be sent:

Planning Services - Planning Enforcement

Bath & North East Somerset Council

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 394041

Email: Planning_Enforcement@bathnes.gov.uk

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