

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING
AND COMPENSATION ACT 1991, AND LEVELLING UP AND REGENERATION ACT
2023)**

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.

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 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 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.

5. 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 and the track marked by the PURPLE 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.

6. TIME FOR COMPLIANCE

Requirement 1: 4 Months from the date this notice takes effect.

Requirement 2: 6 Months from the date this notice takes effect.

7. THIS NOTICE TAKES EFFECT

This notice takes effect on 23rd April 2025, unless an appeal is made against it beforehand.

Dated: 21.03.2025

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.

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 **£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

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.

