

On behalf of Bath and North East Somerset Council,

PLANNING ENFORCEMENT REPORT FOR:

Address: Fry's Bottom, Chelwood, Bristol (hereafter known as "the Land").

The matters which appear to constitute the breach of planning control:

1. Without Planning Permission, the change of use of land from forestry to a mixed use consisting of forestry, storage, firewood production, motorbike trials practice, equestrian, a waste transfer site and associated structure
 2. Without Planning Permission, the construction of a non-agricultural storage building.
 3. 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.
 4. Without Planning Permission, the construction of a dwelling house,
 5. 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.
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Date: 21st March 2025

Case reference: 23/00023/UNDEV

Ward: Clutton

RECOMMENDATION: Expedient to pursue formal enforcement action

NOTICE TYPE: Enforcement Notice



Development Management

Bath & North East Somerset Council

Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG

Tel 01225 477000

www.bathnes.gov.uk

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1.0 SITE CONTEXT

- 1.1 The enforcement notice refers to a large parcel of land (8.5 Hectares) known as Fry's Bottom that formed part of an old colliery site. The site is within the Bristol and Bath Green Belt and is designated as a Site of Nature Conservation Interest (SNCI)
- 1.2 The site is located approximately 1 Kilometre north from the Village of Clutton and is within Clutton Parish and Council Ward.

2.0 ENFORCEMENT INVESTIGATION

- 2.1 The Council have had extensive enforcement history at the site relating to the previous use of the land as a motorcycle trails practice area, that resulted in a planning enforcement notice being issued.
- 2.2 The breaches of planning control subject to this report were reported to the Council during the determination of a retrospective planning application on the site for the retention of a forestry building. (22/03198/FUL)
- 2.3 After this time, various site visits were made to the property and resulted in a Planning Contravention Notice being served on the landowner in June 2023, with this being replied to on 17th July 2023.
- 2.4 At this time the Council met with the owner of the land and his representatives and put their concerns to them. In this meeting the Council were advised the owner was intending to submit a number of planning applications for various proposed developments and changes of use on the land. The Council advised the owner it would be beneficial to both parties if the enforcement issues could be dealt with prior

to any further planning applications being submitted. However, this advice was not heeded and a further planning application was submitted in the subsequent months.

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- 2.5 Due to large amounts of waste being dumped throughout the site, the Council felt it necessary to contact the Environment Agency, who subsequently conducted a visit to the site in October 2023 but subsequently determined to take no further action.
- 2.6 In December 2023, the owner submitted an application for planning permission to change the use of the site from Forestry to a mixed use of Forestry and for recreational use as a Trial Bike and E-Bikes (EAPCs) practice area. As this planning application was being determined, the Enforcement case was put on hold. After this application was refused, the Council continued its investigation into the planning breaches on the land.
- 2.7 During the course of the planning enforcement investigation, the owner of the land has been highly critical of the Council and has accused it of unfair treatment of him and this case. It should be noted that the Council completely refutes these accusations.
- 2.8 Given the complexity of this site and the accusations of unfair treatment, the Council took the highly unusual step of preparing draft enforcement notices that were shared with the land owner for their comment.
- 2.9 The Council received a response from the owner's representative, but the response disagreed with the nature and extent of the breaches occurring and did not offer a way forward that would resolve the breaches identified by the Council.
- 2.8 As such, the Council determined that the expediency of formal enforcement action needed to be assessed.

3.0 RELEVANT PLANNING HISTORY

Development Management:

DC - 99/02213/AGRN - PERMITTED - 23 April 1999 - Detached forestry building

DC - 15/03966/ADCOU - REFUSED - 28 October 2015 - Prior approval request for change of use from Agricultural Building to Dwelling (C3) and associated operational development.

DC - 21/04150/FUL - REFUSED - 21 January 2022 - Erection of a forestry building for the storage of felled trees/logs and timber (Retrospective).

DC - 22/03198/FUL - PERMIT - 13 January 2023 - Erection of a forestry building for the storage of felled trees/logs and timber (Retrospective).

DC - 23/01555/COND - DISCHG - 4 July 2023 - Discharge of condition 1 of application 22/03198/FUL (Erection of a forestry building for the storage of felled trees/logs and timber (Retrospective)).

DC - 23/02618/NMA - APPROVED - 10 August 2023 - Non-Material Amendment to application 22/03198/FUL (Erection of a forestry building for the storage of felled trees/logs and timber (Retrospective)).

DC - 23/03035/AGRN - WITHDRAWN - 8 September 2023 - Creation of forestry tracks.

DC - 23/03251/PIP - WITHDRAWN - 5 October 2023 - Permission in Principle Planning Application for the conversion of a rural building into a C3 residential dwelling

Enforcement:

EN - 06/00398/UNDEV - CLOSED - 25 September 2008 - Enforcement Enquiry

EN - 07/00252/UNAUTH - CLOSED - 9 July 2007 - Enforcement Enquiry

EN - 08/00502/UNDEV - CLOSED - 24 February 2009 - Enforcement Enquiry

EN - 17/00276/UNDEV - CLOSED - 27 January 2018 - Enforcement Enquiry

EN - 21/00079/UNAUTH - NOTICE - Unauthorised change of use of land from Forestry to a Mixed use of Forestry and recreational use of trials bikes. Enforcement Notice issued 15.12.2021, Appeal dismissed 03.05.2022.

4.0 RELEVANT PLANNING POLICIES

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- o Made Neighbourhood Plans

CORE STRATEGY:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP5: Flood Risk Management

CP6: Environmental Quality

CP8: Green Belt



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SD1: Presumption in favour of sustainable development

PLACEMAKING PLAN:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

GB1: Visual amenities of the Green Belt

PCS6: Unstable Land

D2: Local character and distinctiveness

D6: Amenity

Policy PCS3: Air Quality

Policy RE4: Essential Dwellings For Rural Workers

Policy PCS7A: Foul Sewage Infrastructure

Policy SCR5: Water Efficiency

Policy PCS6: Unstable Land

M1: Mineral safeguarding areas

LCR5: Safeguarding existing sport and recreational facilities

PCS1: Pollution and nuisance

PCS2: Noise and vibration

LCR7B: Broadband

LOCAL PLAN PARTIAL UPDATE:

The Local Plan Partial Update for Bath and North East Somerset Council was adopted on 19th January 2023. The Local Plan Partial Update has introduced a number of new policies and updated some of the policies contained within the Core Strategy and Placemaking Plan. The following policies of the Local Plan Partial Update are relevant to this proposal:



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DW1: District Wide Spatial Strategy

D8: Lighting

NE2: Conserving and enhancing the landscape and landscape character

NE3: Sites, species, and habitats

NE3a: Biodiversity Net Gain

NE5: Ecological networks

NE6: Trees and woodland conservation

PCS5: Contamination

Policy SCR6: Sustainable Construction Policy For New Build Residential Development

Policy ST1: Promoting Sustainable Travel And Healthy Streets

RE1: Employment uses in the countryside

ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

The following Supplementary Planning Documents (SPDs) are relevant to the determination of this application:

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

NEIGHBOURHOOD PLANS:

The following Neighbourhood Plan is relevant to the determination of this application:

CLUTTON

CNP4: FUTURE INFRASTRUCTURE PROVISION

CNP5: SUSTAINABILITY BY DESIGN

CNP7: SEWAGE DISPOSAL

CNP10: TRAFFIC IMPACTS OF NON-RESIDENTIAL DEVELOPMENT

CNP15: LANDSCAPE AND ECOLOGY

NATIONAL POLICY:

The National Planning Policy Framework (NPPF) and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

5.0 EXPEDIENCY OF ENFORCEMENT ACTION

5.1 Given the large number of breaches of planning control and planning units involved, the Council consider that it would be appropriate to issue five separate notices. The details of these notices are listed below:

Enforcement Notice Reference 23/0023/UNDEV/OD1 – The Weigh Bridge House, Fry's Bottom

5.2 This enforcement notice relates to: without planning permission, the construction of a dwelling house.

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

5.3 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).

5.4 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, there is not a demonstrable need for this development type and it's not in a sustainable location, it is considered to be inappropriate development. As such, 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, and RE4 of the Bath and North East Somerset Placemaking Plan, and Section 13 of The National Planning Policy Framework.

- 5.5 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
- 5.6 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.
- 5.7 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.
- 5.8 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.
- 5.9 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 LCR7B of the Bath and North East Somerset Councils Placemaking Plan and Policy CNP4 of the Clutton Neighbourhood Plan.
- 5.10 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.

- 5.11 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.
- 5.12 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.
- 5.13 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.

Enforcement Notice reference: 23/00023/UNDEV/OD2

5.14 This Enforcement Notice relates to:

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.

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

- 5.15 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).

- 5.16 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 paragraph 154 of the NPPF. In addition, it does not comply with paragraph 155 as there is not demonstratable unmet need for the development type and the site is not considered to be in a sustainable location. 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.
- 5.17 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.
- 5.18 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.
- 5.19 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.

- 5.20 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.
- 5.21 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.
- 5.22 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 of the BANES Placemaking Plan and the NPPF.
- 5.23 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.
- 5.24 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.

- 5.25 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.

Enforcement Notice Reference: 23/00023/UNDEV/OD3

- 5.26 This Enforcement Notice relates to: 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.

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

- 5.27 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).
- 5.28 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.
- 5.27 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
- 5.28 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.

- 5.29 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.
- 5.30 The 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.
- 5.31 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.
- 5.32 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.
- 5.33 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.

- 5.34 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.

Enforcement Notice Reference: 23/00023/UNDEV/COU1

- 5.35 Without Planning Permission, the change of use of land from forestry to a mixed use consisting of forestry, storage, firewood production, motorbike trials practice, equestrian, a waste transfer site and associated structure.
- 5.36 Although the owner of the land has informed the Council the motorbike trails practice taking place on the land has ceased, the Council has chosen to include it as part of the breach of planning control. It has been made clear in *Paton & Anor v Secretary of State for Levelling Up, Housing and Communities & Anor* [2025] EWHC 245 (Admin), that the breach of planning control does not need to be occurring at the time of service of the enforcement notice, and that it is sufficient for a breach to have occurred. In addition, the Council has a reasonable suspicion that this element of the mixed use has not totally ceased.

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

- 5.37 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).
- 5.38 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.

- 5.39 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.
- 5.40 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.
- 5.41 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.
- 5.42 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.
- 5.43 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.
- 5.44 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.
- 5.45 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.

5.46 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.

5.47 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.

6.0 APPROPRIATENESS OF THE TERMS OF THE NOTICE

6.1 The requirements of the Enforcement Notices are as follows:

23/00023/UNDEV/OD1:

5.2 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) – **4 Months**

The Council consider the requirements and the time frame set out is appropriate for the following reasons:

- 6.3 It is considered the requirements of the notice are reasonable and necessary, and no lesser measures could effectively remedy the breach in planning control.
- 6.4 The council considers time for compliance to be appropriate the amount of work required.

23/00023/UNDEV/OD2:

- 6.5 Requirement 1: Demolish the building shaded in YELLOW and labelled A on the attached plan and remove all resultant materials from the land. – **4 Months**
- 6.6 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. – **6 Months**

The Council consider the requirements and the time frame set out is appropriate for the following reasons:

- 6.7 It is considered the requirements of the notice are reasonable and necessary, and no lesser measures could effectively remedy the breach in planning control.
- 6.8 The Council has included the requirement to restore the land to its previous condition prior to the unauthorised development taking place. It is the owner of the site who is aware of the condition of the land prior to the unauthorised development taking place, therefore the Council consider they will be able to comply with this requirement.
- 6.9 The council considers time for compliance to be appropriate the amount of work required.

23/00023/UNDEV/OD3

- 6.10 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. – **4 Months**

- 6.11 Requirement 2: Restore the land to its condition prior to the Beach of Planning Control specified in Part 3 of this Notice occurring. – **6 Months**

The Council consider the requirements and the time frame set out is appropriate for the following reasons:

- 6.12 The Council consider that the track marked in purple and the dam marked in blue are immune from planning enforcement action, as such they are not required to be removed by this notice. The land owners have made representations to the Council regarding the requirements of this notice, arguing that it is not clear what tracks in the woodland have to be removed. The Council did consider attempting to mark the tracks throughout the woodland via aerial imagery, and then requiring these marked tracks to be removed, but it was found this would have been extremely difficult given the tree cover and the size of the site. There could also be the additional risk unauthorised tracks could be missed from the notice and therefore not resolving the breach of planning control.
- 6.13 The Council determined the best way forwards was to mark the tracks the Council consider to be immune from planning enforcement action on the enforcement plan and exclude these tracks from the requirements of the notice. The Council can only include the tracks that it knows are lawful as being mentioned in the breach and excluded from the requirements, would grant the tracks planning permission in line with Section 173 (11) of The Town and County Planning Act 1990 (as amended)
- 6.14 The council considers time for compliance to be appropriate the amount of work required.

23/00023/UNDEV/COU1

- 6.15 Requirement 1: Cease the use of land for the mixed use consisting of forestry, storage, firewood production, motorbike trials practice, equestrian 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) – **6 Months**
- 6.16 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). – **6 Months**
- 6.17 Requirement 3: Remove the wooden structure circled in red in Image 1 attached to this notice and remove the resultant materials from the land. – **6 Months**
- 6.18 Requirement 4: Restore the land to its previous condition prior to the breach specified in part 3 of this notice took place. – **6 Months**

The Council consider the requirements and the time frame set out is appropriate for the following reasons:

- 6.19 It is considered the requirements of the notice are reasonable and necessary, and no lesser measures could effectively remedy the breach in planning control.
- 6.20 The council considers time for compliance to be appropriate the amount of work required.

7.0 HUMAN RIGHTS AND EQUALITIES

- 7.1 It is considered that Article 1 of the First Protocol (peaceful enjoyment of possessions) of the European Convention on Human Rights may apply in this matter. However, those rights must be weighed against the public interest in preserving the character and appearance of the surrounding area. Given the planning harms identified and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

7.2 Regard has also been had to the Council's duty under s149 of the Equality Act 2010 to pay due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics and to foster good relations between different groups when discharging its functions. It is considered that the taking of planning enforcement action in this case would not have any particular negative impact on any group with protected characteristics.

8.0 CONCLUSION

8.1 For the reasons given above, it is considered expedient to issue enforcement notices under section 172(1) of the Town and Country Planning Act 1990 (as amended) having regard to the provisions of the development plan and to other material planning considerations including the National Planning Policy Framework (NPPF)

8.2 There will be four Enforcement Notices covering this site. The reasons for issue, requirements and time for compliance have been set out in Sections 5 & 6 of this report.

9.0 DECISION

I authorise enforcement action pursuant to the power delegated to my post.

Authorising Officer: **Neil Howat** - [Team Manager – Planning Enforcement]

Signed:



Dated: 21st March 2025