

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00241



Ms Lajan Omer Hama
54 Pendower Way
Newcastle Upon Tyne
NE15 6LS
DH1 1RG

24th February 2017

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

**BREACH OF CONDITION NOTICE RELATING TO
Breach of condition regarding extended opening hours outside the planning
consent. at
Wok Next 97 Claypath Durham DH1 1RG**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that conditions imposed on planning permission 4/11/00713/FPA have not been complied with. I now serve on you a copy of that notice as you have an interest in the land.

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition specified within the notice or failed to undertake any of the steps specified within the notice, or

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

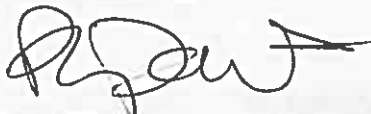
A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Pam Glaister', with a long horizontal stroke extending to the right.

Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this Notice, you are required to *secure compliance* with the stated condition(s) by taking the following steps: -

- (1) *Cease operating outside the permitted hours 9am and 11pm on any day.*

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

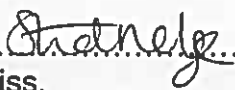
"Period for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Period for compliance: 28 days beginning with the day on which this Notice is served on you. *(not less than 28 days)*

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect **IMMEDIATELY** it is served on you in person or you receive it by postal delivery

Dated : 27/2/17

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has not been complied with*. The Council consider that you should be required to *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Wok Next 97 Claypath Durham DH1 1RG registered under HM Land Registry Title number DU332092 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – 4/11/00713/FPA

Date granted - 3/11/2011

Description of development- Conversion of an A2 vacant driving school office to an A3 cafe or restaurant including the erection of an external flue on the rear elevation

4. **THE BREACH OF CONDITION**

The following condition has not been complied with:-

(5) The hours of operation of the A5 hot food takeaway shall be between 9am and 11pm only and at no other time

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence, under the provisions of Section 187A –ss(8)-(12) to fail to comply with the requirements of this Notice after the end of the compliance period.

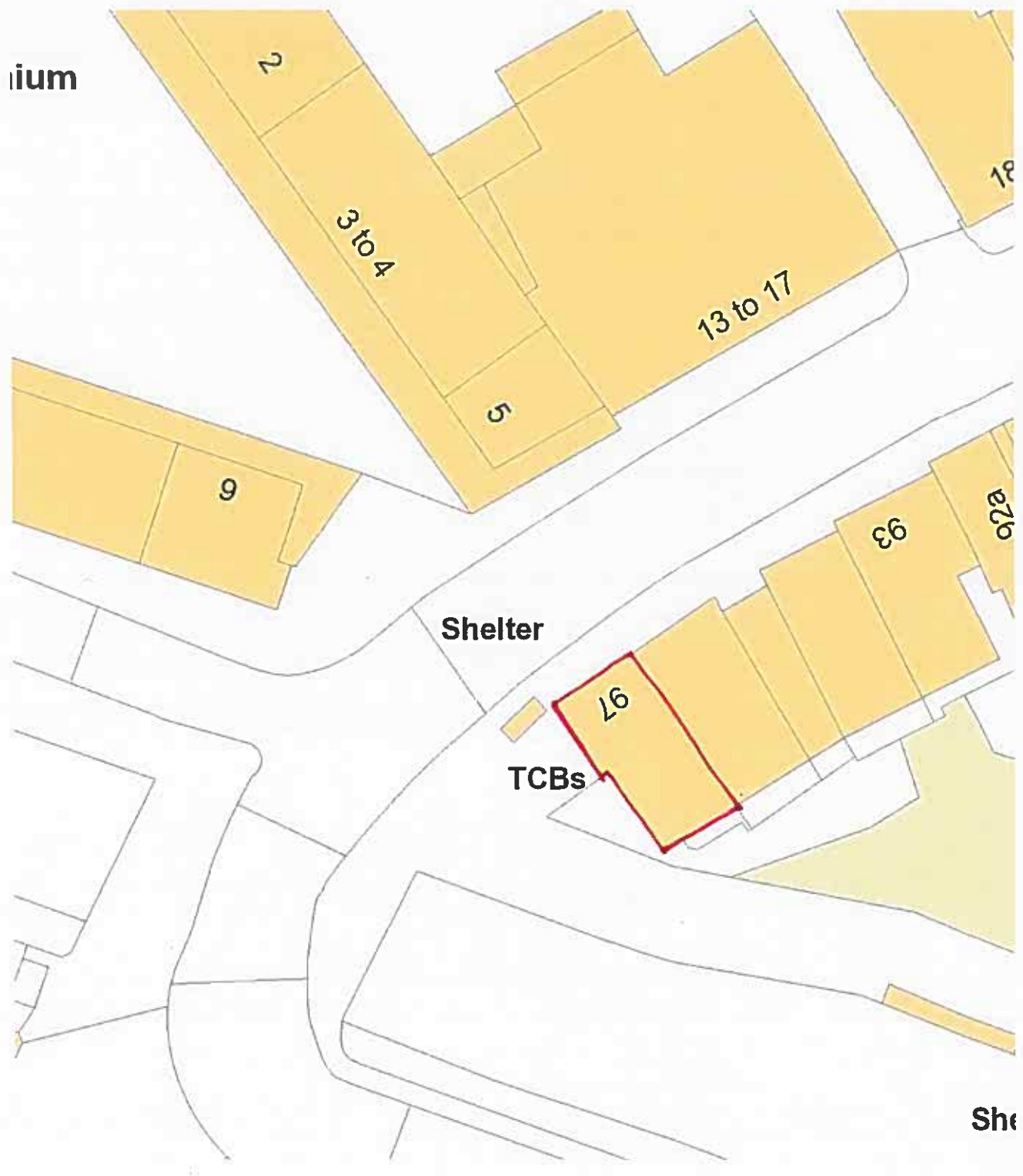
You will then be at risk of **immediate prosecution** in the Magistrates Court, for which the any person found guilty of an offence shall be liable on summary conviction to a fine.

If you are in any doubt about what this Notice requires you to do you should get in touch **immediately** with the case officer.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk

If you do need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute.





Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00294



Mr Paul Ferguson
170 York Crescent
Newton Hall
Durham
DH1 5QS

6th July 2016

Dear Mr Ferguson

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

**ENFORCEMENT NOTICE RELATING TO UNAUTHORISED
Garden fence encroached onto public open space at
170 York Crescent Newton Hall Durham DH1 5QS**

Durham County Council has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the following, who it is understood also have an interest in the land:

Mr Paul Ferguson
Mrs Lucy Ferguson

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 8th August 2016 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.

Copies of the Enforcement Notice appeal forms should be obtained directly from the Planning Inspectorate at Room 3/13 Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN :-

- on-line at the Appeal Casework Portal (<https://acp.planninginspectorate.gov.uk>); or
- by phone – 0303 444 5000 or
- by emailing us enquiries@pins.gsi.gov.uk

Due to the limited time in which you have to appeal you are strongly advised to use the online Appeal Casework Portal of the Planning Portal where you can submit your appeal

Regeneration and Economic Development

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall, Durham DH1 5UL

online or download a form rather than waiting for the forms to be sent out to you in the post. If you encounter difficulties please do not hesitate to contact this office.

You can also read/download guidance on the Enforcement Appeals Procedures and the use of The Appeal Casework Portal from the website www.gov.uk/appeal-enforcement-notice 'Enforcement Appeals: procedural guide and 'Enforcement Notice Appeals: how to complete your enforcement appeal form'.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 8th August 2016.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee; the amount of the fee is dependent on the type of development undertaken and is double that payable for a normal planning application. In this case the Council has calculated the fee to be £, (**not applicable**) which must be paid to the Council (made payable to Durham County Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should provide the Planning Inspectorate with a Statement setting out briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Planning Inspectorate will send you a notice requiring you to do so within 14 days.

Important: As the council has issued an enforcement notice, this also affects the timescales that are available to you to submit an appeal against the decision to refuse your

planning application. The period to appeal the refusal is now restricted to 28 days from the date of issue of the enforcement notice, ie 28 days from 7th July 2016.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Pam Glaister', written over a faint horizontal line.

Pam Glaister
Senior Enforcement Officer

Enc Enforcement Notice, 2 copies, Reg5 Explanatory Note, PINS leaflet



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land at 170 York Crescent Newton Hall Durham DH1 5QS registered under HM Land Registry Title number DU28013 and shown edged red on the attached plan ("the Land")

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

Without planning permission the material change of use of the Land to Private Garden by erecting a fence encroached onto public open space

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because:-

- a. The development has a detrimental impact on the character and appearance of the area by unacceptably reducing an area of open space that form as an important part of a series of open spaces, resulting in an incongruent development which has a significant loss of amenity to the character of the area, contrary to policies H13, E5a, Q1 and Q9 of Durham Local Plan.
- b. The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.

5. **WHAT YOU ARE REQUIRED TO DO**

- a. Permanently cease the use of the land as extension to the domestic curtilage for 170 York Crescent.
- b. Relocate the fence to the original boundary as shown lined blue on the attached plan.

6. **TIME FOR COMPLIANCE**

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

56 days from the date on which this notice takes effect (avoidance of doubt by 4th October 2016)

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on *8th August 2016* unless an appeal is made against it beforehand.

Dated : *6th July 2016 .*

Signed: *Shandge* Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

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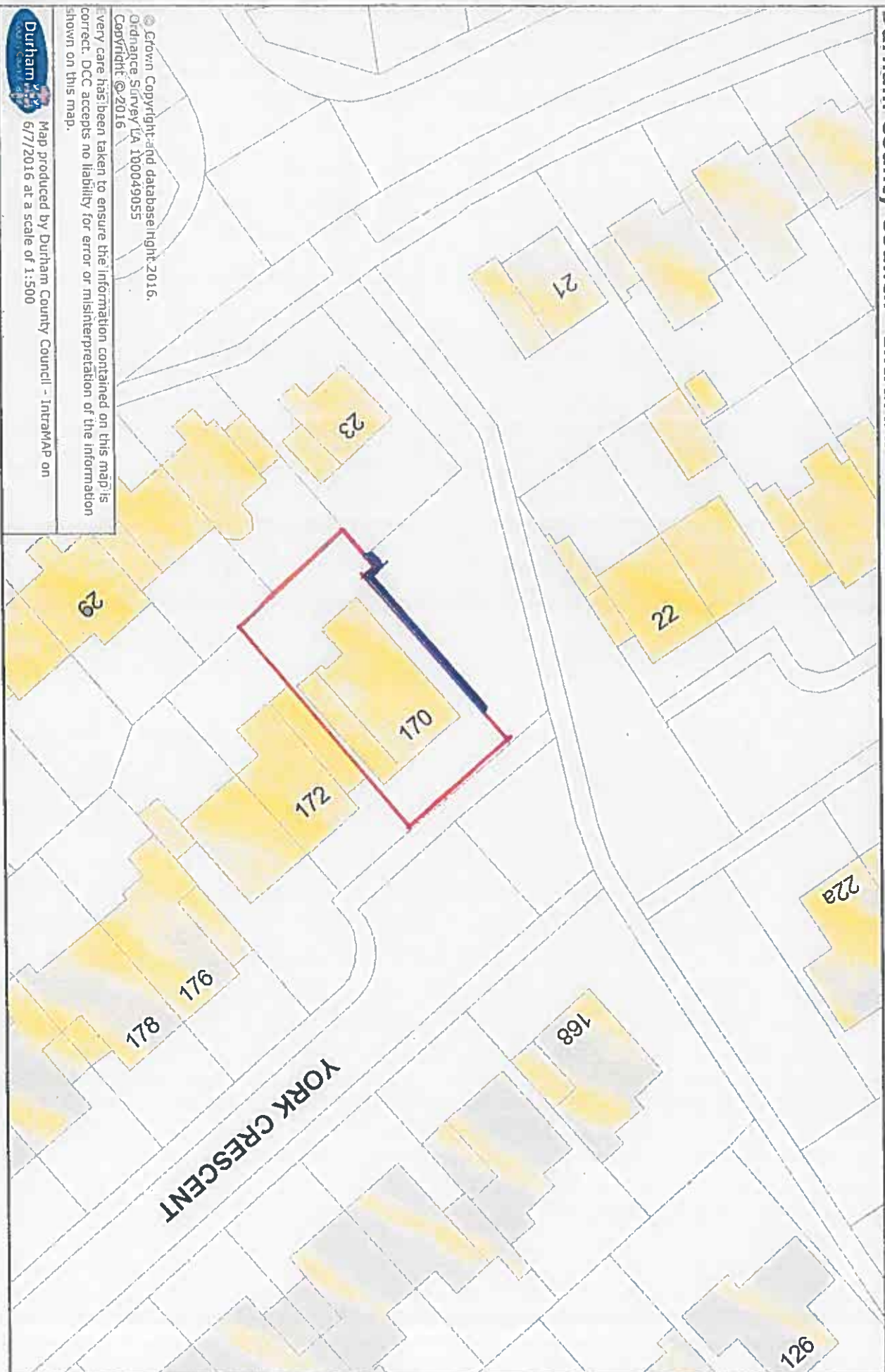
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WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

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Durham County Council - IntraMAP



Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00294



Mrs Lucy Ferguson
170 York Crescent
Newton Hall
Durham
DH1 5QS

6th July 2016

Dear Mrs Ferguson

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

ENFORCEMENT NOTICE RELATING TO UNAUTHORISED

**Garden fence encroached onto public open space at
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Regeneration and Economic Development

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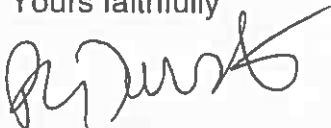
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Important: As the council has issued an enforcement notice, this also affects the timescales that are available to you to submit an appeal against the decision to refuse your

planning application. The period to appeal the refusal is now restricted to 28 days from the date of issue of the enforcement notice, ie 28 days from 7th July 2016.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully

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Pam Glaister
Senior Enforcement Officer

Enc Enforcement Notice, 2 copies, Reg5 Explanatory Note, PINS leaflet

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

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ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

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4. **REASONS FOR ISSUING THIS NOTICE**

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- b. The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.

5. **WHAT YOU ARE REQUIRED TO DO**

- a. Permanently cease the use of the land as extension to the domestic curtilage for 170 York Crescent.
- b. Relocate the fence to the original boundary as shown lined blue on the attached plan.

6. **TIME FOR COMPLIANCE**

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

56 days from the date on which this notice takes effect (avoidance of doubt by 4th October 2016)

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 8th August 2016 unless an appeal is made against it beforehand.

Dated : 6th July 2016 .

Signed: Sturridge Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

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WHAT HAPPENS IF YOU DO NOT APPEAL

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If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

Durham County Council - IntraMAP



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990,
SECTION 38 (as amended)**

LISTED BUILDING ENFORCEMENT NOTICE

THIS NOTICE IS ISSUED BY: **THE COUNTY COUNCIL OF DURHAM ('the Council')**

1. **THIS IS A FORMAL NOTICE** which is issued to you under section 38 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) ("the Act"), by the Council as the local planning authority for the purposes of the Act, in relation to the building described below ("the building") which is included within a list approved or compiled under Section 1 of the Act.

The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. **THE BREACH OF LISTED BUILDING CONTROL**

It appears to the Authority that the following works have been or are being executed to the building and are such as to constitute a contravention of section 9(1) or (2) of the Act:

The installation of two, timber four over four pane sliding sash windows with 24mm double glazed units with applied glazing bars to the principal elevation of the Grade II listed dwellinghouse.

3. **THE BUILDING TO WHICH THE NOTICE RELATES**

6 Front Street, Staindrop, Darlington, County Durham DL2 3NH registered under HM Land Registry Title number DU163572 and shown hatched on the attached plan ("the Land")

Listed Building List Entry number 1338616
(Date of Listing 14/09/1966)

4. **REASONS FOR ISSUING THIS NOTICE**

The Council considers that it is expedient to issue this notice having regard to the effect of the alleged works on the character/significance of the building as one of special architectural or historic interest.

An application for listed building consent to retain the windows as installed (reference DM/16/00334/LB) has been refused by the Council for the following reasons: The windows by reason of their design have had a harmful effect on the special architectural and historic interest of the listed building, which also forms an

intrinsic element of the character of the Staindrop Conservation Area. The windows have not preserved the special interest of the listed building, and have also failed to preserve or enhance the character of the Conservation Area as a whole. This is contrary to saved policies BENV1 and BENV4(A) of the Teesdale District Local Plan (2002) and paragraphs 131 and 134 National Planning Policy Framework 2012.

The Council has considered an application to retain the works and determined that these are not works for which listed building consent should be granted subject to conditions or otherwise.

5. WHAT YOU ARE REQUIRED TO DO

- a. Remove the two windows on the principal elevation
- b. Replace the two windows with timber weighted sliding sash units, of a two over two pane design as shown on the drawing attached to this notice, to the proportions of the current openings, using traditional fixed structural glazing bars. All timber elements, including horns shall be integral to the structure of the windows and not applied additions. The glazing shall be thin profile double glazing units, with a profile no greater than 14 mm. (The windows shall not include trickle vents)
- c. The replacement windows shall be painted in a white timber exterior paint.

6. TIME FOR COMPLIANCE

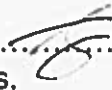
"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

23 weeks from the date on which this notice takes effect

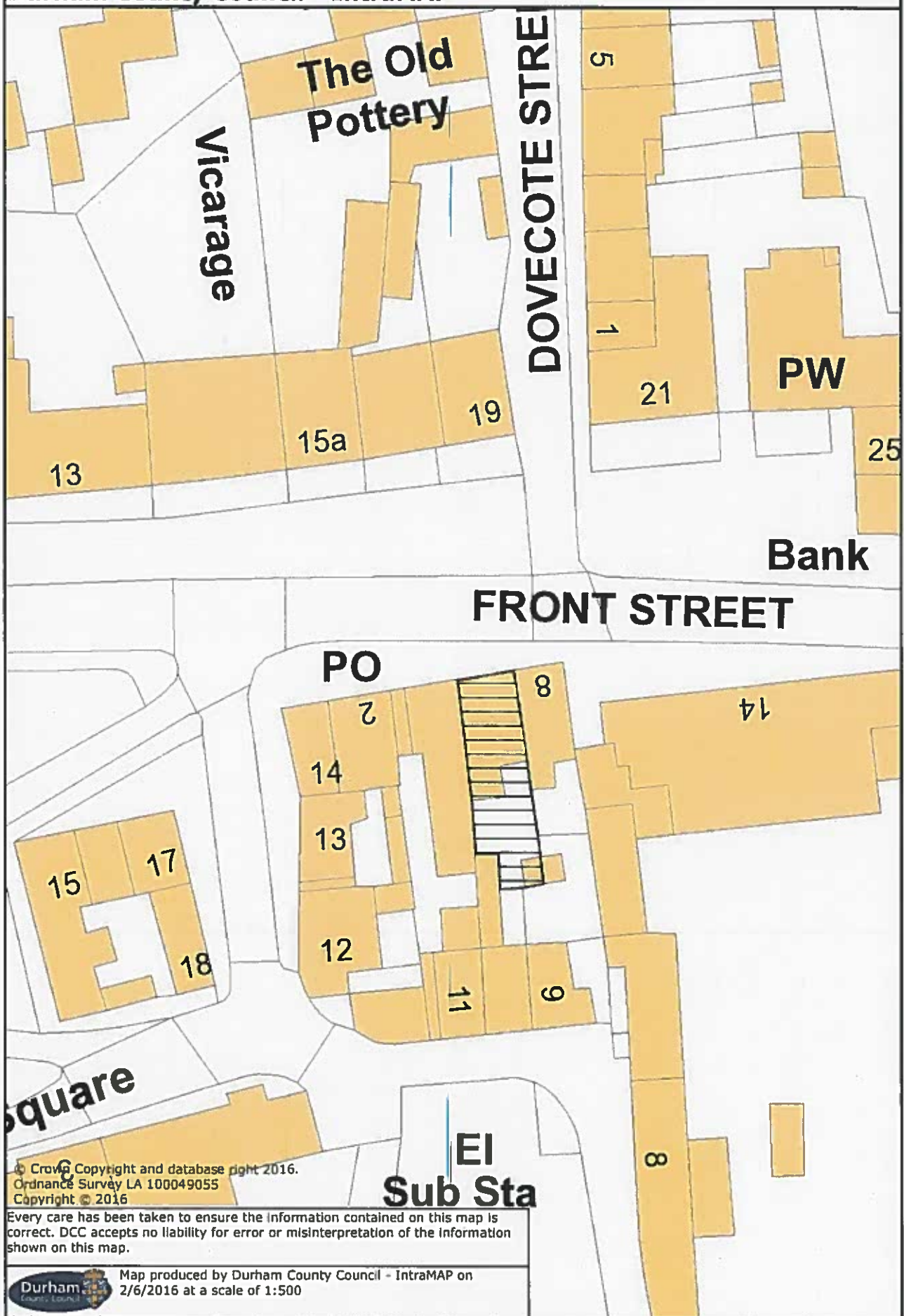
7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **5 July 2016** unless an appeal is made against it beforehand.

Dated : 2 June 2016

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (South West),
Room G73-82, County Hall, Durham DH1 5UL



ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice**. The appeal must (i) specify the grounds on which the appeal against the notice is made and (ii) set out briefly the facts on which you propose to rely in support of each of those grounds, and if such a statement is not included with the appeal he shall deliver it to the Secretary of State not later than 14 days from the date on which the Secretary of State sends him a notice requiring him to do so.

The grounds of appeal available under this Act have been provided in the attached documentation.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

Guidance on the enforcement notice appeal process and how to appeal and use the Appeal Casework Portal is available on the internet at www.gov.uk/appeal-enforcement-notice providing links to the Portal and guidance documents "Enforcement Appeals: procedural guide" and "Listed Building Enforcement Notice appeals: how to complete your enforcement appeal form".

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(As amended by the Planning and Compensation Act 1991)

BREACH OF CONDITION NOTICE

SERVED BY: The County Council of Durham ("the Council")

**To: ADM Regeneration Ltd, Warrington Lane, Lymm, WA13 0SA and
Persimmon Homes, Bowburn North Industrial Estate, Bowburn, Durham,
DH6 5PF**

1. **THIS NOTICE** is served by the Council, under section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below has not been complied with. The Council consider that you should be required to secure compliance with the condition specified in this notice. The Annex at the end of this notice contains important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at the former Durham Constabulary Headquarters, Aykley Heads, Durham, shown edged red on the attached plan ('the Land').

3. **THE RELEVANT PLANNING PERMISSION**

The relevant planning permission to which this notice relates is permission Ref: CMA/4/71, granted by the Council on 26th October 2012 for the demolition of the existing police headquarters including listed telecommunications mast, and erection of residential development with associated landscaping and roads on the Land.('the Planning Permission').

4. **THE BREACH OF CONDITION**

The following condition of the Planning Permission has not been complied with:

Condition 15:

All deliveries, construction and/or demolition works shall take place during the following time periods: Monday to Friday 0800hrs to 1800hrs, Saturday 0830hrs to 1300hrs, with no site activities on Sundays and Bank Holidays.

5. **WHAT YOU ARE REQUIRED TO DO**

As the persons responsible for the breaches of condition specified in paragraph 4 of this notice, you are required to secure compliance with the stated condition by **ceasing** the following activities:

The undertaking of any and all operations on the land outside of the hours specified in condition 15 of the Planning Permission, as set out in paragraph 4 of this Notice.

*Period for compliance: **28 days** beginning with the day on which this notice is served on you.*

Dated: 26 July 2016

Signed: *CL Teasdale*

On behalf of: The County Council of Durham

Nominated Officer: Andrew Inch

Telephone Number: 03000 261155

ANNEX

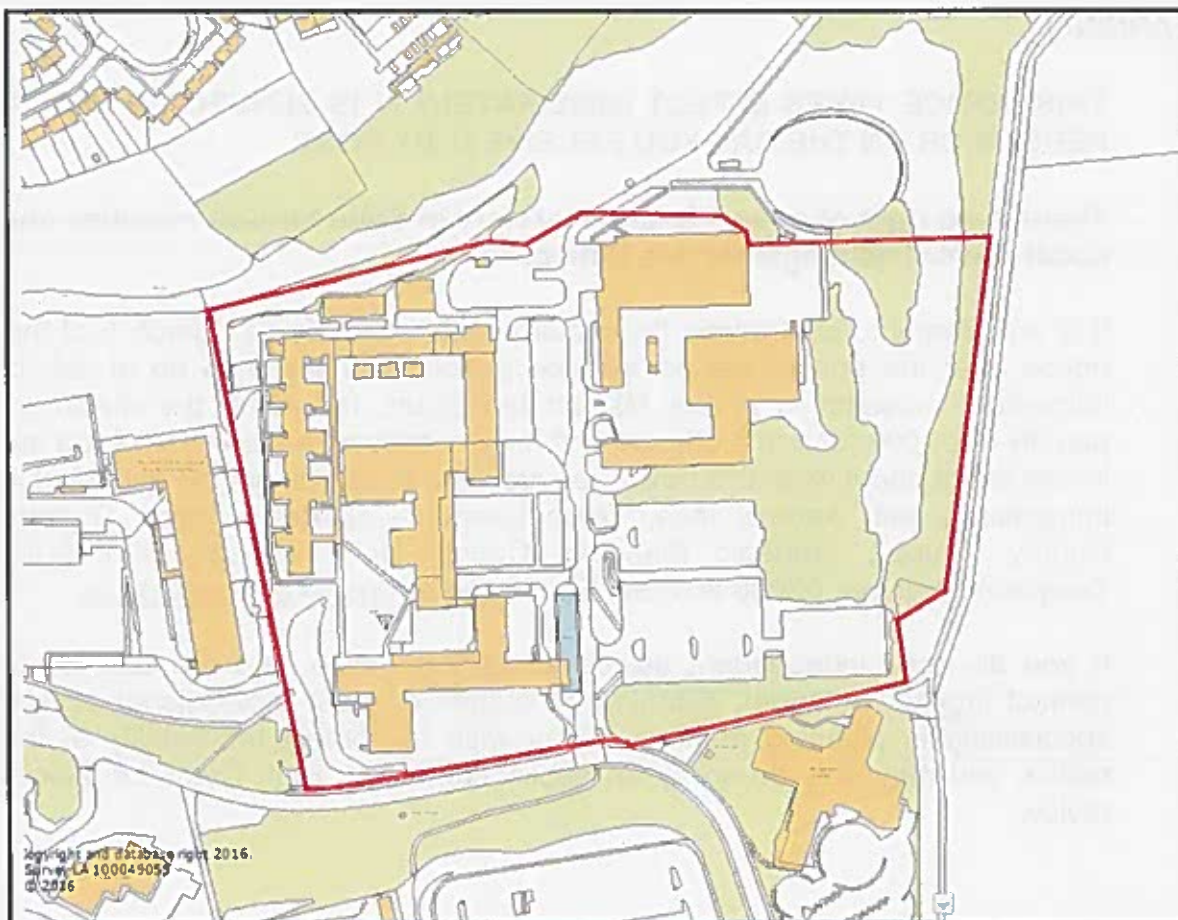
WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVE IT BY POST.

There is no right of appeal to the Secretary of State for Communities and Local Government against this Notice.

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do you should get in touch immediately with Andrew Inch, Team Leader – Strategic Team, Durham County Council, Strategic Planning, County Hall, Durham, DH1 5UQ. Telephone number: 03000 261155. Email: andrew.inch@durham.gov.uk.

If you do need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.



Planning Services

Land at the former Durham
Constabulary Headquarters,
Aykley Heads, Durham

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IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land at 24 Nevilledale Terrace Durham DH1 4QG registered under HM Land Registry Title number DU312974 and shown edged in red on the attached plan ("the Land")

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

Without planning permission the unauthorised material change of use of the Land from domestic dwellinghouse (C3 use class) to a House of Multiple Occupation (C4 use class)

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because:-

The development has compounded a concentration of student accommodation in the vicinity such that it harms the character of the area and amenities of other residents; fails to promote the creation of sustainable, inclusive and mixed communities and also fails to maintain an appropriate housing mix. The development is therefore contrary to policies H9 and H13 of the City of Durham Local Plan, paragraph 50 of the NPPF and Part A of the Interim Policy on Student Accommodation.

5. **WHAT YOU ARE REQUIRED TO DO**

Permanently cease the use of the property as a House in Multiple Occupation (Use Class C4 of the Town and Country Planning (Use Classes) Order 1987 as amended).

6. **TIME FOR COMPLIANCE**

On or before the 30th June 2017

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 21 February 2017 unless an appeal is made against it beforehand.

Dated : 24th January 2017.

Signed: Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

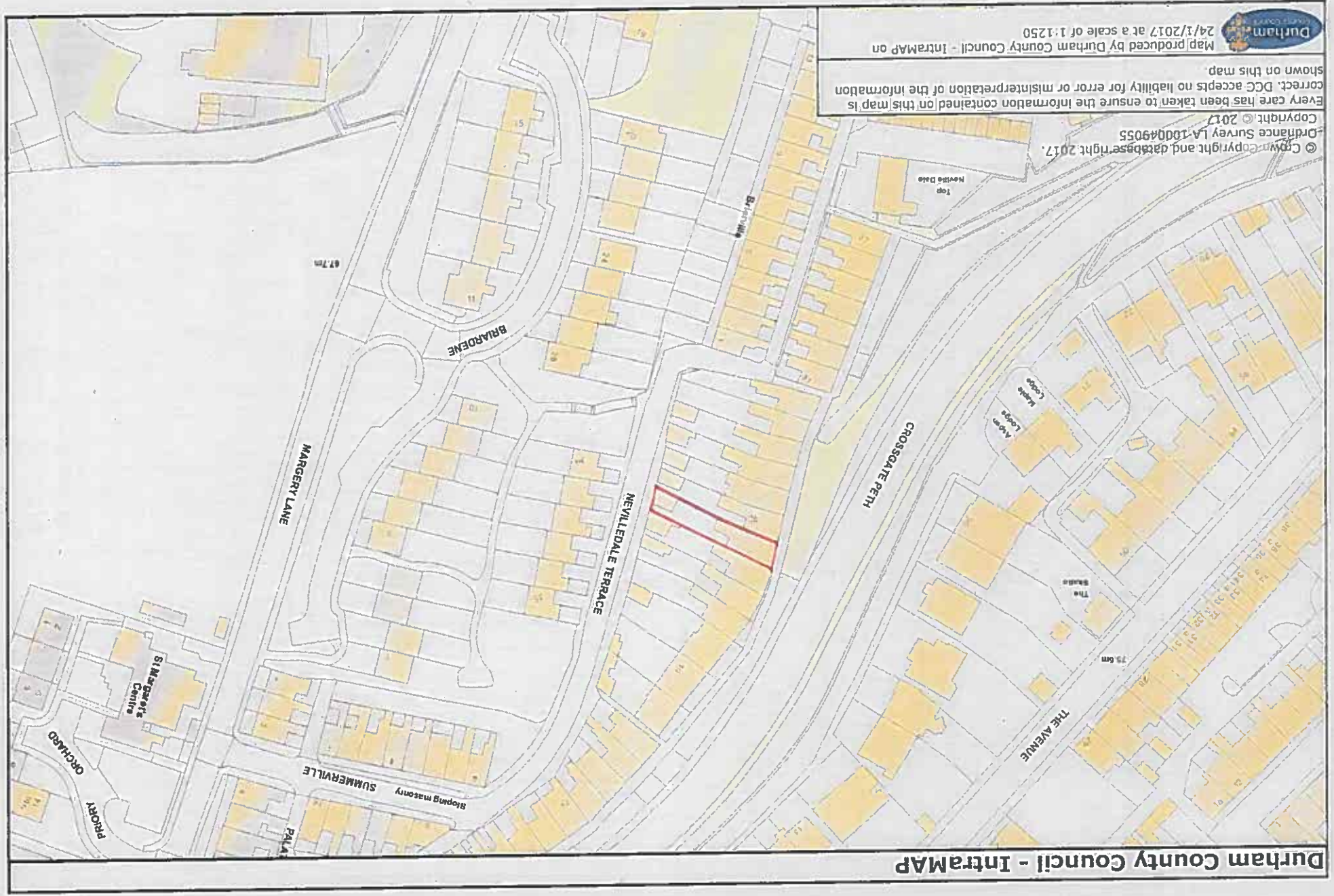
The Planning Inspectorate, PO Box 326, Bristol, BS99 7XF

Guidance on the enforcement notice appeal process and how to appeal and use the Appeal Casework Portal is available on the internet at www.gov.uk/appeal-enforcement-notice providing links to the Portal and guidance documents "Enforcement Appeals: procedural guide" and "Enforcement Notice appeals: how to complete your enforcement appeal form".

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk



Plan for identification purposes only; not to be used for scaling or formal documentation

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

TO:

Mr Mark Thomas OLIVER
Former Olivers Garden Centre
Holmhill Lane
Chester Le Street
Co Durham
DH2 3RQ

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**
Land at Olivers Garden Centre, Holmhill Lane, Chester Moor, Chester-le-Street DH2 3RQ registered under HM Land Registry Title number DU128777 and shown on the attached plan ("the Land")
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**
Without planning permission the material change of use of the land formerly known as Olivers Garden Centre, Holmhill Lane, Chester le Street, DH2 3RQ from garden centre to a storage facility for caravans and motorhomes.
4. **REASONS FOR ISSUING THIS NOTICE**
It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because:-

- a. The use of the site for caravan/motorhome storage constitutes inappropriate

development in the green belt; and has detrimental effect upon the openness and visual amenity of the green belt, contrary to Policies NE3, NE4 and NE6 of the Chester le Street District Local Plan, 2003 (saved policies 2009) and the advice in Part 9 of the NPPF.

5. WHAT YOU ARE REQUIRED TO DO

- a. Permanently cease the use of the land for the storage of caravans and motorhomes.
- b. Permanently remove all caravans and motorhomes from the land.

6. TIME FOR COMPLIANCE

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Four weeks from the date on which this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on Monday 21st November 2016 unless an appeal is made against it beforehand.

Dated : *19/10/2016*

Signed: *[Signature]* Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (North),
Room G73-82, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

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The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

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If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

ENFORCEMENT NOTICE EXPLANATORY NOTE

Extract from the Town & Country Planning Act 1990 (as amended)

Section 171A – Expressions used in connection with enforcement

- (1) For the purposes of this Act—
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) the issue of an enforcement notice (defined in section 172); or
 - (b) the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.
- (3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act. 1971 Act.]

Section 171B – Time Limits

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

Section 172 - Power to issue enforcement notice

- (1) The local planning authority may issue a notice (In this Act referred to as an "enforcement notice") where it appears to them—
 - (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 172A - Assurance as regards prosecution for person served with notice

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.

Section 173 - Contents of enforcement notice

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—
- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
- (a) an enforcement notice requires the construction of a replacement building; and
 - (b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A - Variation and withdrawal of notice

- (1) The local planning authority may—
- (a) withdraw an enforcement notice issued by them; or
 - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Section 174 - Appeal against enforcement notice

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) that those matters have not occurred;
 - (c) that those matters (if they occurred) do not constitute a breach of planning control;
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

- (e) that copies of the enforcement notice were not served as required by section 172;
 - (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
 - (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- (2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—
- (a) the land to which the enforcement notice relates is in England, and
 - (b) the enforcement notice was issued at a time—
 - (i) after the making of a related application for planning permission, but
 - (ii) before the end of the period applicable under section 78(2) in the case of that application.
- (2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.
- (3) An appeal under this section shall be made either—
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date]; or
 - (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section "relevant occupier" means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the land when the appeal is brought.

Section 175 - Appeals: supplementary provisions

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1) (c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.
- (4) Where an appeal is brought under section 174 the enforcement notice shall subject to any order under s.289(4A) be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

Section 176 - General provisions relating to determination of appeals

- (1) On an appeal under section 174 the Secretary of State may—
 - (a) correct any defect, error or misdescription in the enforcement notice; or
 - (b) vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
 - (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.
- (3) The Secretary of State—
 - (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
 - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177 - Grant or modification of planning permission on appeals against enforcement notices

- (1) On the determination of an appeal under section 174, the Secretary of State may—
 - (a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
 - (b) discharge any condition or limitation subject to which planning permission was granted;
 - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.]
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
 - (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.
- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.

(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if the fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

OPERATIONAL DEVELOPMENT

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land To The West of Mount Park Drive and To The North Of Newbiggen Lane Lanchester, Co Durham DH7 0PT registered under HM Land Registry Title number DU339775 and shown edged red on the attached plan ("the Land")

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

Without planning permission the operational development consisting of the formation and laying out of a means of vehicular access onto the C57 road without planning approval.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years

The Council considers it expedient to issue this notice because:-

a)

The vehicular access fails to provide the required visibility splay of 2.4m x 90m to the west of the site. Additionally, the double field gates have not been sufficiently set back from the carriageway edge to allow a tractor and trailer to safely clear the highway when entering or leaving the agricultural field. A clearly defined and safe vehicle access and exit onto the highway cannot be provided, contrary to Policy EN1 and criteria (a) of Policy TR2 of the Derwentside District Local Plan

b)

The development has resulted in the loss of a 6m section of important historic hedgerow which has resulted in significant harm to the character and appearance of the site and landscape, contrary to Part 11 of the NPPF, criteria (c) of Policy GDP1, and Policy EN1 of the Derwentside District Local Plan as it contributed to the rural character of the area and attractive western entrance to the village, a landscape feature in its own right.

c)

The Council have refused planning permission for the development and planning conditions could not overcome the objections.

5. WHAT YOU ARE REQUIRED TO DO

1)

Permanently remove the two metal agricultural access gates.

2)

Infill the gap where the double gates have been removed with a wooden post and rail fence to match the existing fences, both in appearance and height, to either side of the gate posts.

3)

Permanently remove the road plainings/aggregate area that has been layed between the field gates and the C57 road.

4)

Restore the hedgerow banking and verge by forming with top soil. Compact the top soil to create a section of verge and banking commencing at the last stem of the current hedgerow to the west of the field gates and running east for 16m. The new hedgerow banking must re-create the previously removed hedgerow bank in profile, height and gradient in cross section. The hedgerow bank must reduce in height to the east as the land falls to more level ground. The hedgerow banking should follow the alignment of the previously removed banking. (a photograph of the previous hedgerow banking and verge is included for reference)

5)

Cultivate and grass seed the verge and banking by spreading the grass seed at a covering of 35g/m2.

6. TIME FOR COMPLIANCE

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Steps 1 – 5 of the notice - 3 calendar months from the date on which this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on Monday 10th April 2017 unless an appeal is made against it beforehand.

Dated : 3/3/2017

Signed: A.D.F. Duly Authorised by the Council
on behalf of Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (North),
Room G73-82, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

Guidance on the enforcement notice appeal process and how to appeal and use the Appeal Casework Portal is available on the internet at www.gov.uk/appeal-enforcement-notice providing links to the Portal and guidance documents "Enforcement Appeals: procedural guide" and "Enforcement Notice appeals: how to complete your enforcement appeal form".

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

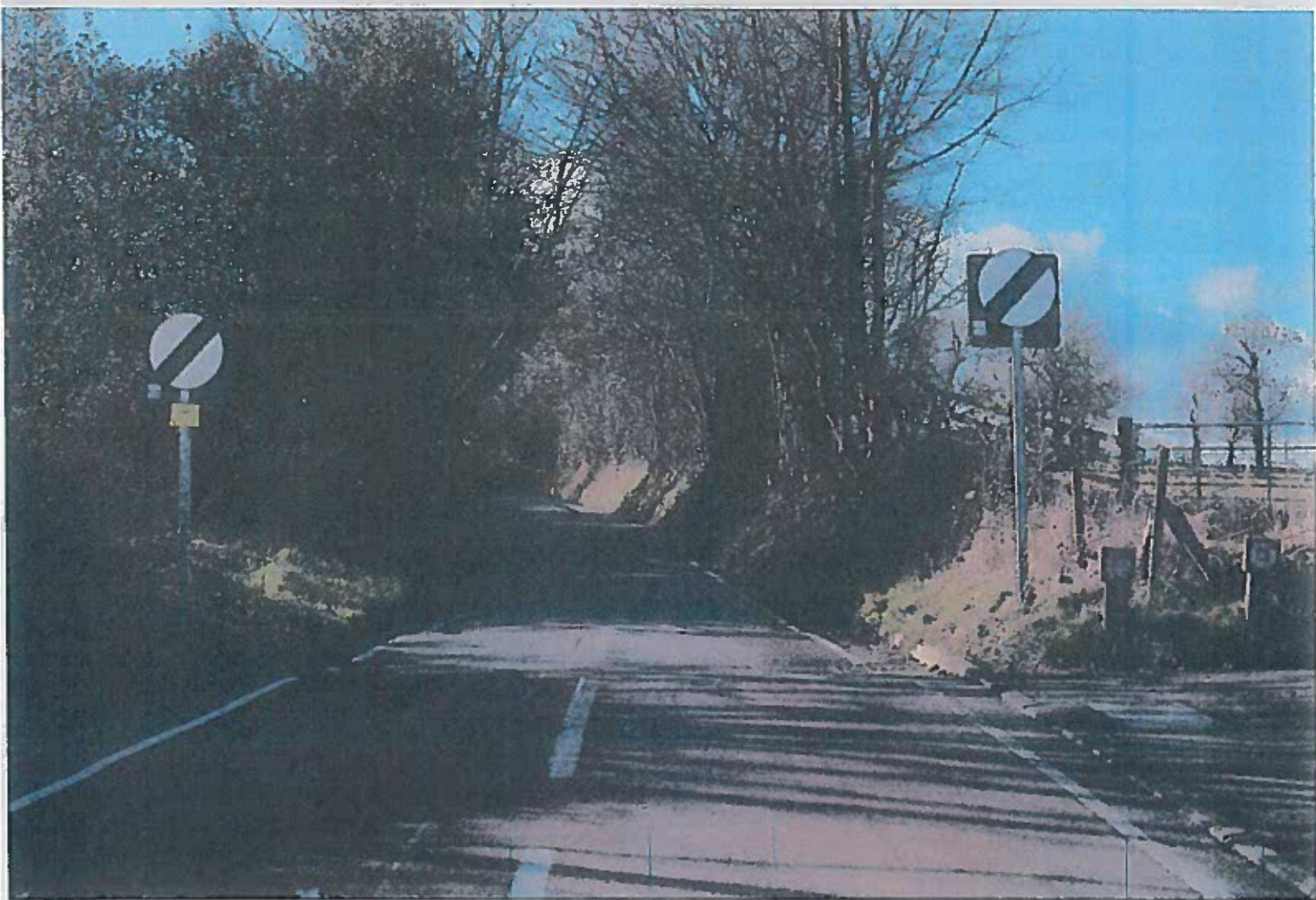
Land Registry
Official copy of
title plan

Title number **DU342383**
Ordnance Survey map reference **NZ1547NE**
Scale **1:2500**
Administrative area **County Durham**



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ENFORCEMENT NOTICE EXPLANATORY NOTE

Extract from the Town & Country Planning Act 1990 (as amended)

Section 171A – Expressions used in connection with enforcement

- (1) For the purposes of this Act—
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) the issue of an enforcement notice (defined in section 172); or
 - (b) the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.
- (3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act. 1971 Act.]

Section 171B – Time Limits

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

Section 172 - Power to issue enforcement notice

- (1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—
 - (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 172A - Assurance as regards prosecution for person served with notice

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.

Section 173 - Contents of enforcement notice

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—
- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
- (a) an enforcement notice requires the construction of a replacement building; and
 - (b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A - Variation and withdrawal of notice

- (1) The local planning authority may—
- (a) withdraw an enforcement notice issued by them; or
 - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Section 174 - Appeal against enforcement notice

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) that those matters have not occurred;
 - (c) that those matters (if they occurred) do not constitute a breach of planning control;
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

- (a) the land to which the enforcement notice relates is in England, and
- (b) the enforcement notice was issued at a time—
 - (i) after the making of a related application for planning permission, but
 - (ii) before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.

(3) An appeal under this section shall be made either—

- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
- (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or
- (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

- (a) specifying the grounds on which he is appealing against the enforcement notice; and
- (b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who—

- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
- (b) continues so to occupy the land when the appeal is brought.

Section 175 - Appeals: supplementary provisions

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- (b) specify the matters to be included in such a statement;
- (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
- (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1) (c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.
- (4) Where an appeal is brought under section 174 the enforcement notice shall be subject to any order under s.289(4A) be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

Section 176 - General provisions relating to determination of appeals

- (1) On an appeal under section 174 the Secretary of State may—
 - (a) correct any defect, error or misdescription in the enforcement notice; or
 - (b) vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.
- (3) The Secretary of State—
 - (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
 - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177 - Grant or modification of planning permission on appeals against enforcement notices

- (1) On the determination of an appeal under section 174, the Secretary of State may—
 - (a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
 - (b) discharge any condition or limitation subject to which planning permission was granted;
 - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.]
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
 - (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.
- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.

(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if the fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/01413



Mr S McGill
Vauxhall Dealership
Bristol Street Motors
Abbey Road
Pity Me
Durham
DH1 5DQ

1st February 2017

Dear Mr McGill,

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE RELATING TO

**Breach of condition regarding the offloading and loading of vehicles on highway
and not within the approved site as per planning consent. at
Bristol Street Motors Abbey Road Pity Me Durham DH1 5DQ**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that a condition imposed on planning permission 4/01/00919/fpa has not been complied with. I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the following whom, it is understood also have an interest in the land:

Vertu Motors (Property) Limited
Dentons & Co Trustees Ltd
Mr Ronald Price

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition specified within the notice or failed to undertake any of the steps specified within the notice, or the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

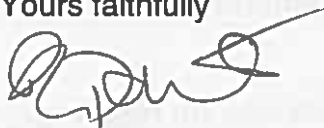
A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has* not been complied with. The Council consider that you should be required to *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Bristol Street Motors Abbey Road Pity Me Durham DH1 5DQ registered under HM Land Registry Title number DU328020 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – 4/01/00919/fpa

Date granted – 30 January 2002

Description of development ; Erection of Motor Vehicle Showroom and Associated workshops, offices, and car parking areas.

4. **THE BREACH OF CONDITION**

The following condition(s) have not been complied with:-

Condition - 8) The space allocated on the approved drawing for transporter turning shall remain clear at all times and be clearly marked for that purpose. At no time shall transporters be loads or unloaded on the public highway.

5. **WHAT YOU ARE REQUIRED TO DO**

As the person responsible for the breach of condition specified in paragraph 4

of this Notice, you are required to *secure compliance* with the stated condition by taking the following steps: -

- a. Cease using the public highway for the loading / unloading of motor vehicles in connection to the garage site.
- b. The space allocated on the approved drawing for transporter turning shall remain clear at all times and be clearly marked for that purpose

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

"Period for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Period for compliance: 28 days beginning with the day on which this Notice is served on you. (*not less than 28 days*)

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect **IMMEDIATELY** it is served on you in person or you receive it by postal delivery

Dated : 1/2/17

Signed:*Stuart Timmiss*..... Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence, under the provisions of Section 187A –ss(8)-(12) to fail to comply with the requirements of this Notice after the end of the compliance period.

You will then be at risk of **immediate prosecution** in the Magistrates Court, for which the any person found guilty of an offence shall be liable on summary conviction to a fine.

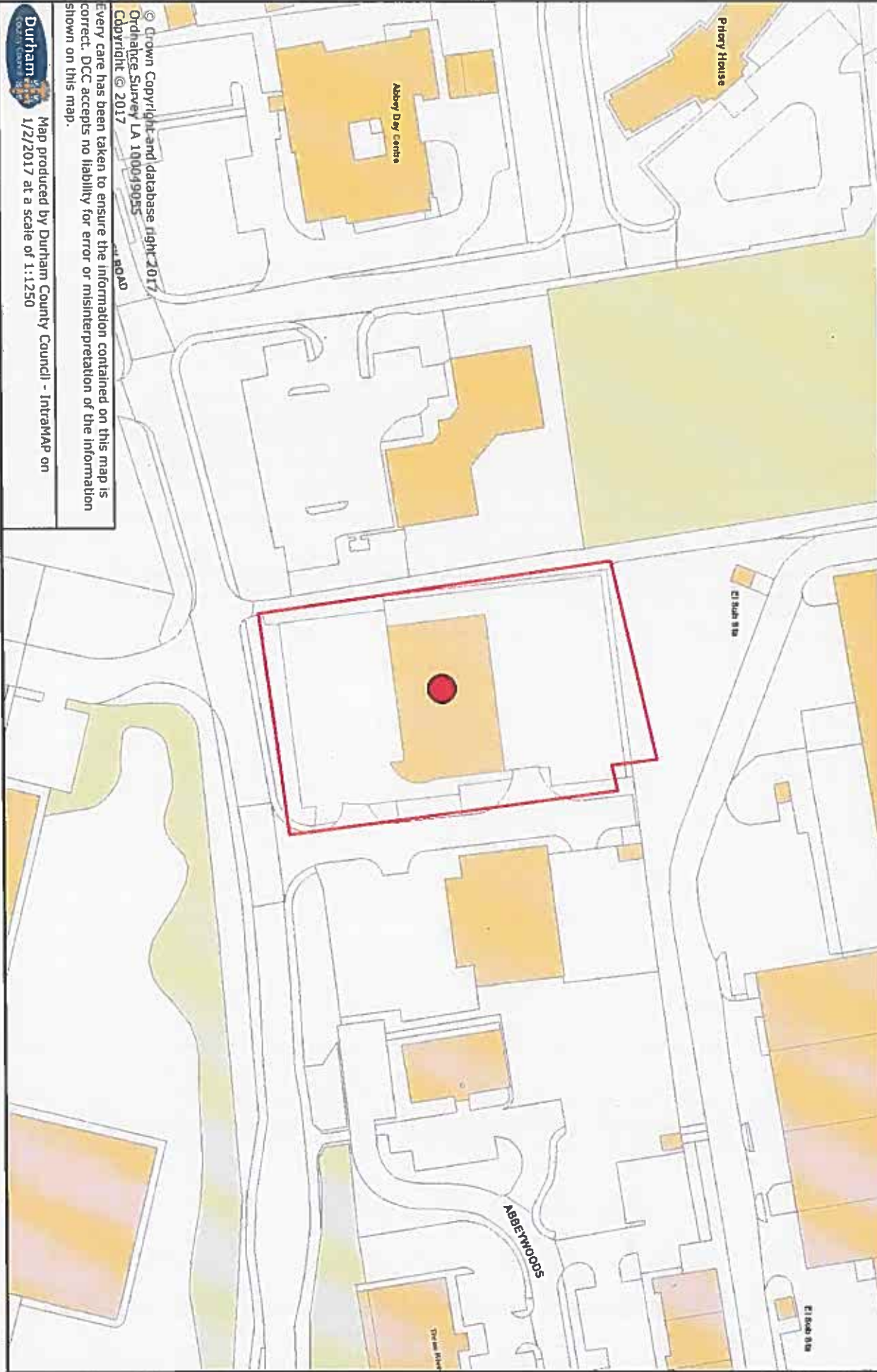
If you are in any doubt about what this Notice requires you to do you should get in touch **immediately** with the case officer.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk

If you do need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute.

Durham County Council - IntraMAP



Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/17/00270



Studios Durham Limited
C/O Denise Chan,
Pan Africa Shippers Ltd,
817 Star House,
3 Salisbury Road,
Tsim Sha Tsui,
Kowloon,
Hong Kong.

10th March 2017

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE RELATING TO

**Breach of Condition 15, DM/15/00355/VOC - prohibiting work on Sundays. at
Rennys Court Car Park Rennys Lane Gilesgate, Durham , England**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that conditions imposed on planning permission DM/15/00355/VOC have not been complied with. I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the following whom, it is understood also have an interest in the land:

STUDIOUS DURHAM LIMITED

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

specified within the notice or failed to undertake any of the steps specified within the notice, or the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

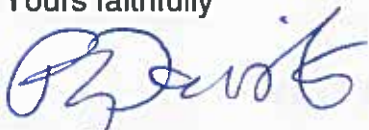
A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has* not been complied with. The Council consider that you should be required to *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Rennys Court Car Park Rennys Lane Gilesgate registered under HM Land Registry Title number DU200622, DU50183, DU57890, DU64086 and DU177324 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – DM/15/00355/VOC

Date granted - 11 March 2016

*Description of development - Variation of condition 2 of approved planning reference CE/13/00849/FPA re Rennys Court Car Park
Rennys Lane
Gilesgate*

4. **THE BREACH OF CONDITION**

The following condition(s) have not been complied with:-

Condition 15

No development works (including demolition) shall be undertaken outside the hours of 7.30am and 7.30 pm Monday to Friday and 8am to 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policies H13 and H16 of the City of Durham Local Plan 2004.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this Notice, you are required to *secure compliance* with the stated condition(s) by taking the following steps: -

- 1) Cease all development works (including demolition) outside the permitted hours of 7.30am and 7.30 pm Monday to Friday and 8am to 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

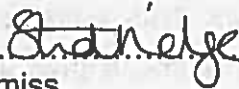
"Period for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Period for compliance: 28 days beginning with the day on which this Notice is served on you. (*not less than 28 days*)

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect **IMMEDIATELY** it is served on you in person or you receive it by postal delivery

Dated: 10th March 2017

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence, under the provisions of Section 187A –ss(8)-(12) to fail to comply with the requirements of this Notice after the end of the compliance period.

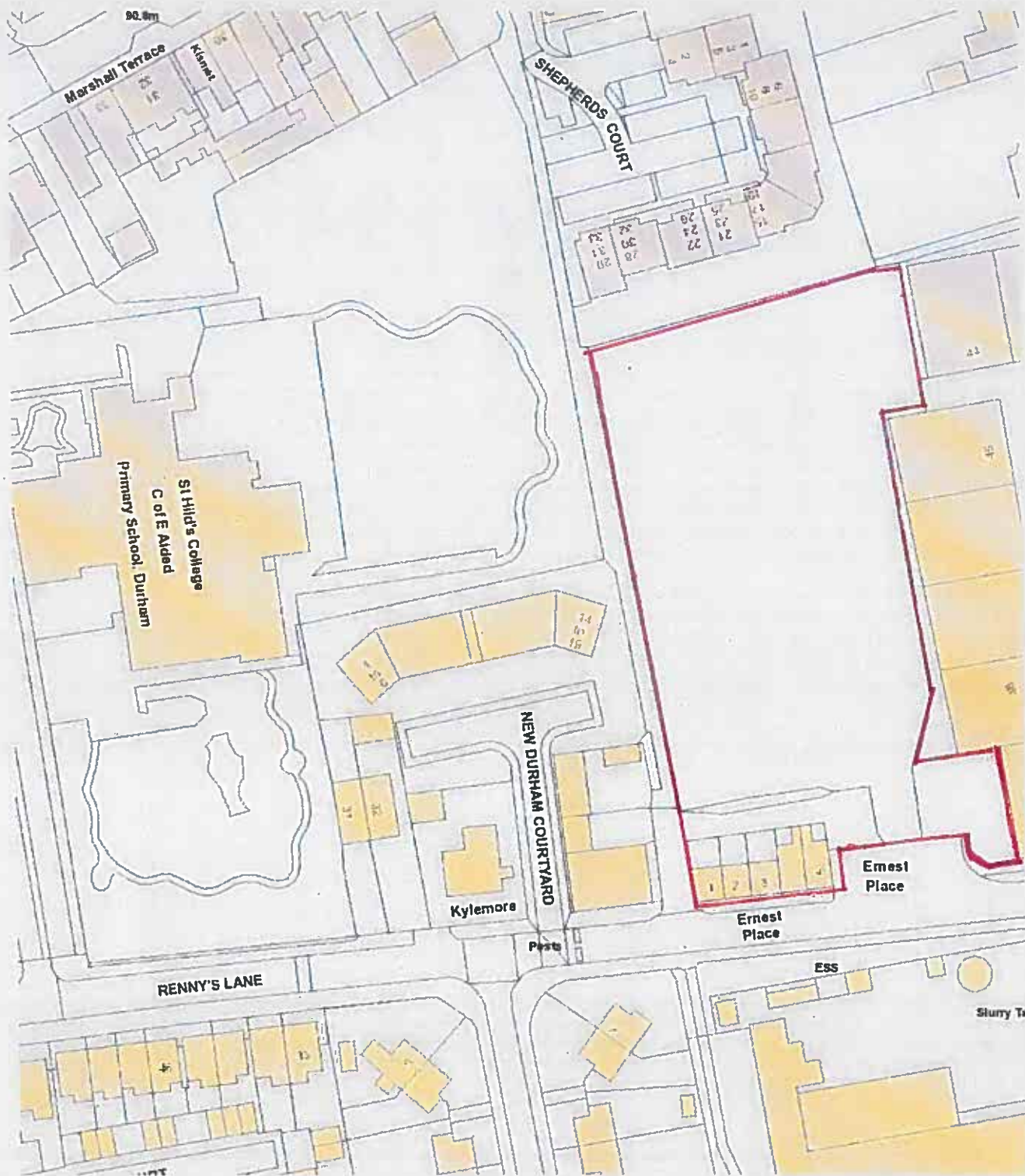
You will then be at risk of **immediate prosecution** in the Magistrates Court, for which the any person found guilty of an offence shall be liable on summary conviction to a fine.

If you are in any doubt about what this Notice requires you to do you should get in touch **immediately** with the case officer.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk

If you do need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute.





Contact: Debbie Bryant
Enforcement Officer
Direct Tel: 03000 264867
email: debbie.byrant@durham.gov.uk
Your ref:
Our ref: EN/15/00534



Mr Kenneth Metcalf
14 Sunningdale
Delves Lane
Consett
County Durham
DH8 7AS

21st June 2016

Dear Sir

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

**ENFORCEMENT NOTICE RELATING TO UNAUTHORISED
Timber and metal storage building at
Land South Of Broomhill Farm Ebchester Hill Ebchester DH8 6RZ**

Durham County Council has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on **Wednesday 20th July 2016** 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.

Copies of the Enforcement Notice appeal forms should be obtained directly from the Planning Inspectorate at Room 3/13 Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN :-

- on-line at the Appeal Casework Portal (<https://acp.planninginspectorate.gov.uk>); or
- by phone – 0303 444 5000 or
- by emailing us enquiries@pins.gsi.gov.uk

Due to the limited time in which you have to appeal you are strongly advised to use the online Appeal Casework Portal of the Planning Portal where you can submit your appeal online or download a form rather than waiting for the forms to be sent out to you in the post. If you encounter difficulties please do not hesitate to contact this office.

Regeneration and Economic Development

Durham County Council, Planning Development (North), Room G73-82, County Hall, Durham DH1 5UL

You can also read/download guidance on the Enforcement Appeals Procedures and the use of The Appeal Casework Portal from the website www.gov.uk/appeal-enforcement-notice 'Enforcement Appeals: procedural guide and 'Enforcement Notice Appeals: how to complete your enforcement appeal form'.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **Wednesday 20th July 2016**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee; the amount of the fee is dependent on the type of development undertaken.

In this case the Council has calculated the fee to be **£390** which must be paid to the Council (made payable to Durham County Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should provide the Planning Inspectorate with a Statement setting out briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Planning Inspectorate will send you a notice requiring you to do so within 14 days.

Important: As the council has issued an enforcement notice, this also affects the timescales that are available to you to submit an appeal against the decision to refuse your planning application. The period to appeal the refusal is now restricted to 28 days from the date of issue of the enforcement notice, ie 28 days from 21st June 2016

Please acknowledge receipt of this letter and enclosures.

Yours faithfully

A handwritten signature in black ink, appearing to be 'DB' with a stylized flourish.A small handwritten mark consisting of the letters 'DB' in a cursive style.

Debbie Bryant
Planning Enforcement Officer

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

OPERATIONAL DEVELOPMENT

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

To

Mr Kenneth Metcalf
14 Sunningdale
Delves Lane
Consett
County Durham
DH8 7AS

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**
Land at South Of Broomhill South Farm, Ebchester Hill, Ebchester, County Durham. DH8 6RZ registered under HM Land Registry Title number DU346913 and shown red on the attached plan ("the Land")
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**
Without planning permission the operational development consisting of the siting of a timber and metal storage building on agricultural land.
4. **REASONS FOR ISSUING THIS NOTICE**
It appears to the Council that the above breach of planning control has occurred within the last four years

The Council considers it expedient to issue this notice because:-

The development is considered to be contrary to Part 11 of the NPPF, specifically in

relation to the protection of valued landscapes, and the development does not contribute to and enhance the natural environment (paragraph 109). The visual impact upon the character of the landscape and the harm to its protection would prove contrary to Policy GDP1 (c and E) of the saved Derwentside District Local Plan. Furthermore, the development would not contribute to the rural economy contrary to Policy EN1 of the Derwentside District Local Plan.

5. WHAT YOU ARE REQUIRED TO DO

Permanently remove the black coloured timber and metal storage building located in the north east corner of the agricultural field adjacent to the B6309 road.

6. TIME FOR COMPLIANCE

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

six weeks from the date on which this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on Wednesday 20th July 2016 unless an appeal is made against it beforehand.

Dated : 21/6/16

Signed: S. J. Clarke Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (North),
Room G73-82, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

Guidance on the enforcement notice appeal process and how to appeal and use the Appeal Casework Portal is available on the internet at www.gov.uk/appeal-enforcement-notice providing links to the Portal and guidance documents "Enforcement Appeals: procedural guide" and "Enforcement Notice appeals: how to complete your enforcement appeal form".

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

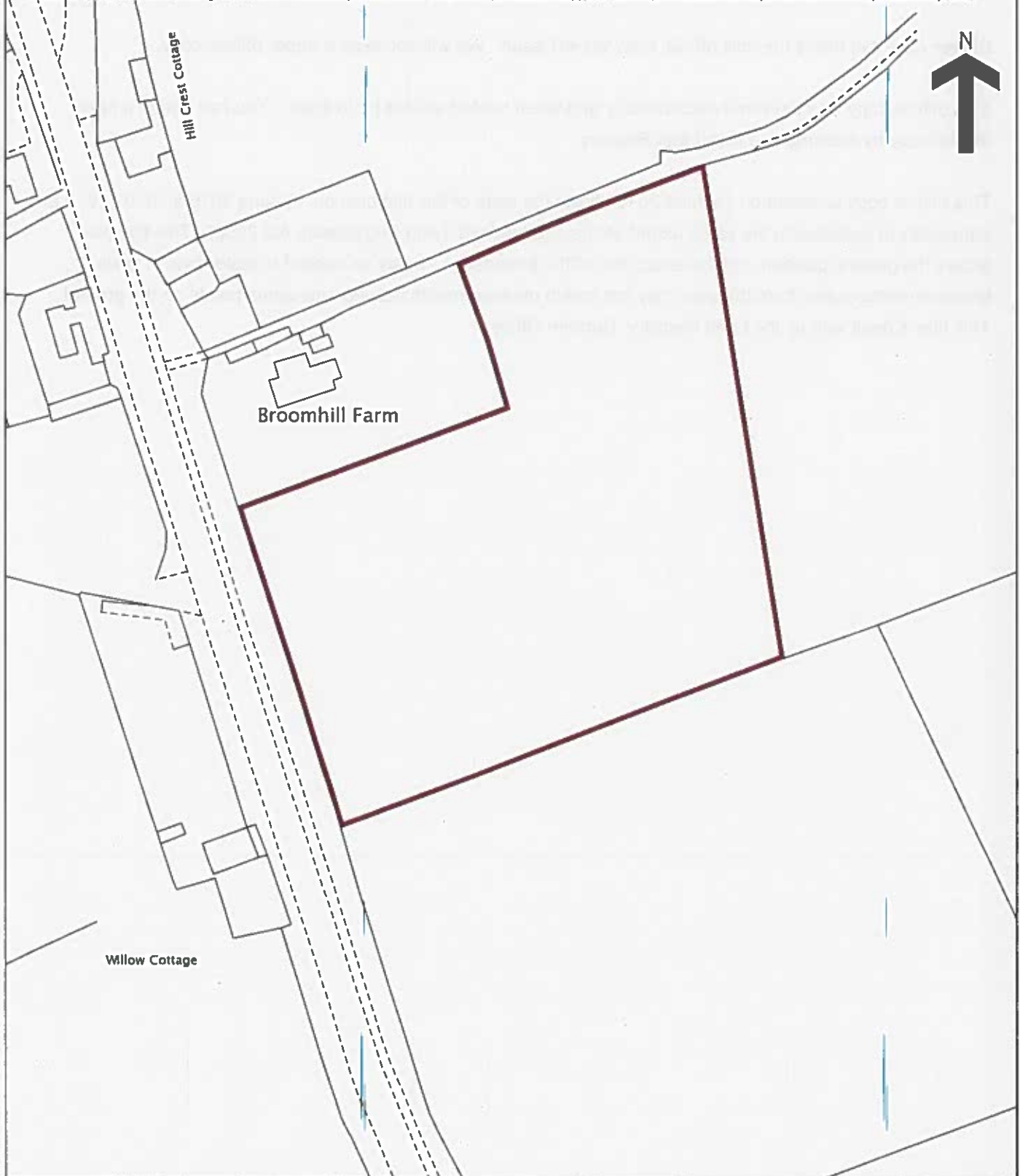
If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

Land Registry
Official copy of
title plan

Title number **DU346913**
Ordnance Survey map reference **NZ1054SE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **County Durham**



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These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This official copy is issued on 15 June 2016 shows the state of this title plan on 15 June 2016 at 10:02:10. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. This title is dealt with by the Land Registry, Durham Office .

Regulation 5 Notice

REGULATION 5 – The Town & Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

ENFORCEMENT NOTICE EXPLANATORY NOTE

Extract from the Town & Country Planning Act 1990 (as amended)

Section 171A – Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or
(b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or
(b) the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.

(3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act. 1971 Act.]

Section 171B – Time Limits

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.]

Section 172 - Power to issue enforcement notice

(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

- (3) The service of the notice shall take place—
(a) not more than twenty-eight days after its date of issue; and
(b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.]

Section 173 - Contents of enforcement notice

- (1) An enforcement notice shall state—
(a) the matters which appear to the local planning authority to constitute the breach of planning control; and
(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are—
(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
(b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
(a) the alteration or removal of any buildings or works;
(b) the carrying out of any building or other operations;
(c) any activity on the land not to be carried on except to the extent specified in the notice; or
(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.]

Section 173A - Variation and withdrawal of notice

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period

specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection

(1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.]

Section 174 - Appeal against enforcement notice

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

[(2) An appeal may be brought on any of the following grounds—

(a) that, in respect of any breach of planning control which may be constituted by the matters

stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.]

[(3) An appeal under this section shall be made [either]—

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date] [; or

- (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.]
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section "relevant occupier" means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence [in writing]; and
 - (b) continues so to occupy the land when the appeal is brought.

Section 175 - Appeals: supplementary provisions

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1) (c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.
- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- [(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]
- (4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under s.289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.
- [(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

Section 176 - General provisions relating to determination of appeals

- [(1) On an appeal under section 174 the Secretary of State may—
- (a) correct any defect, error or misdescription in the enforcement notice; or
 - (b) vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.]

[(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.]

[(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177 - Grant or modification of planning permission on appeals against enforcement notices

(1) On the determination of an appeal under section 174, the Secretary of State may—

[(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]

(b) discharge any condition or limitation subject to which planning permission was granted;

[(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.]

[(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.]

[(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.]

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission [in respect of the matters stated in the enforcement notice as constituting a breach of planning control.]

[(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if the fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

Reproduced by Durham County Council as at 1.6.2010, and will be subject to any subsequent amendment or re-enactment of the legislation

The Planning Inspectorate

The Planning Inspectorate
Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

www.planning-inspectorate.gov.uk

Telephone – Customer Services 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 obtaining enforcement appeal forms by phoning us on 03034445000 or by emailing us enquiries@pins.gsi.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.

The postal address for completed appeal forms (England) is:

Enforcement and Lawful Development Certificate Appeals
The Planning Inspectorate
PO Box 326
Bristol BS99 7XF

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an Enforcement Notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/15/00976



Mr D Robson
3 Witton Grove
Framwellgate Moor
Durham
DH1 5AB

24th June 2016

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

ENFORCEMENT NOTICE RELATING TO UNATHORISED

**Land is being enclosed as garden curtilage, allegedly without planning approval for change of use. at
3 Witton Grove Framwellgate Moor Durham DH1 5AB**

Durham County Council has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the following, who it is understood also have an interest in the land:

Sandra Burton

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 25th July 2016 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.

Copies of the Enforcement Notice appeal forms should be obtained directly from the Planning Inspectorate at Room 3/13 Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN :-

- on-line at the Appeal Casework Portal (<https://acp.planninginspectorate.gov.uk>); or
- by phone – 0303 444 5000 or
- by emailing us enquiries@pins.gsi.gov.uk

Due to the limited time in which you have to appeal you are strongly advised to use the online Appeal Casework Portal of the Planning Portal where you can submit your appeal online or download a form rather than waiting for the forms to be sent out to you in the post. If you encounter difficulties please do not hesitate to contact this office.

You can also read/download guidance on the Enforcement Appeals Procedures and the use of The Appeal Casework Portal from the website www.gov.uk/appeal-enforcement-notice 'Enforcement Appeals: procedural guide and 'Enforcement Notice Appeals: how to complete your enforcement appeal form'.

Regeneration and Economic Development

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall, Durham DH1 5UL



If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 25th July 2016.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee; the amount of the fee is dependent on the type of development undertaken and is double that payable for a normal planning application. In this case the Council has calculated the fee to be £770 which must be paid to the Council (made payable to Durham County Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should provide the Planning Inspectorate with a Statement setting out briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Planning Inspectorate will send you a notice requiring you to do so within 14 days.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Enforcement Notice, 2 copies, Reg5 Explanatory Note, PINS leaflet

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land at 3 Witton Grove Framwellgate Moor Durham DH1 5AB registered under HM Land Registry Title number DU153760. and shown edged red on the attached plan ("the Land")

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

Without planning permission the material change of use of the Land to Land is being enclosed as garden curtilage, allegedly without planning approval for change of use.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because:-

The development has a detrimental impact on the character and appearance of the area by unacceptably reducing an area of open space that forms an important part of a series of open spaces, resulting in an incongruent development which has a significant loss of amenity to the character of the area, contrary to policies H13, E5a, Q1 and Q9 of the City of Durham Local Plan.

The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.

5. **WHAT YOU ARE REQUIRED TO DO**

- a. Permanently cease the use of the land as an extension to the domestic curtilage for 3 Witton Grove, Durham
- b. Dismantle and permanently remove from the site the timber post and rail fence shown lined in blue on attached plan.

6. **TIME FOR COMPLIANCE**

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

56 days from the date on which this notice takes effect (avoidance of doubt 20th September 2016)

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on *25th July 2016* unless an appeal is made against it beforehand.

Dated : *24/6/16*

Signed: *Stuart Timmiss* Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk/> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pins.gsi.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

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The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

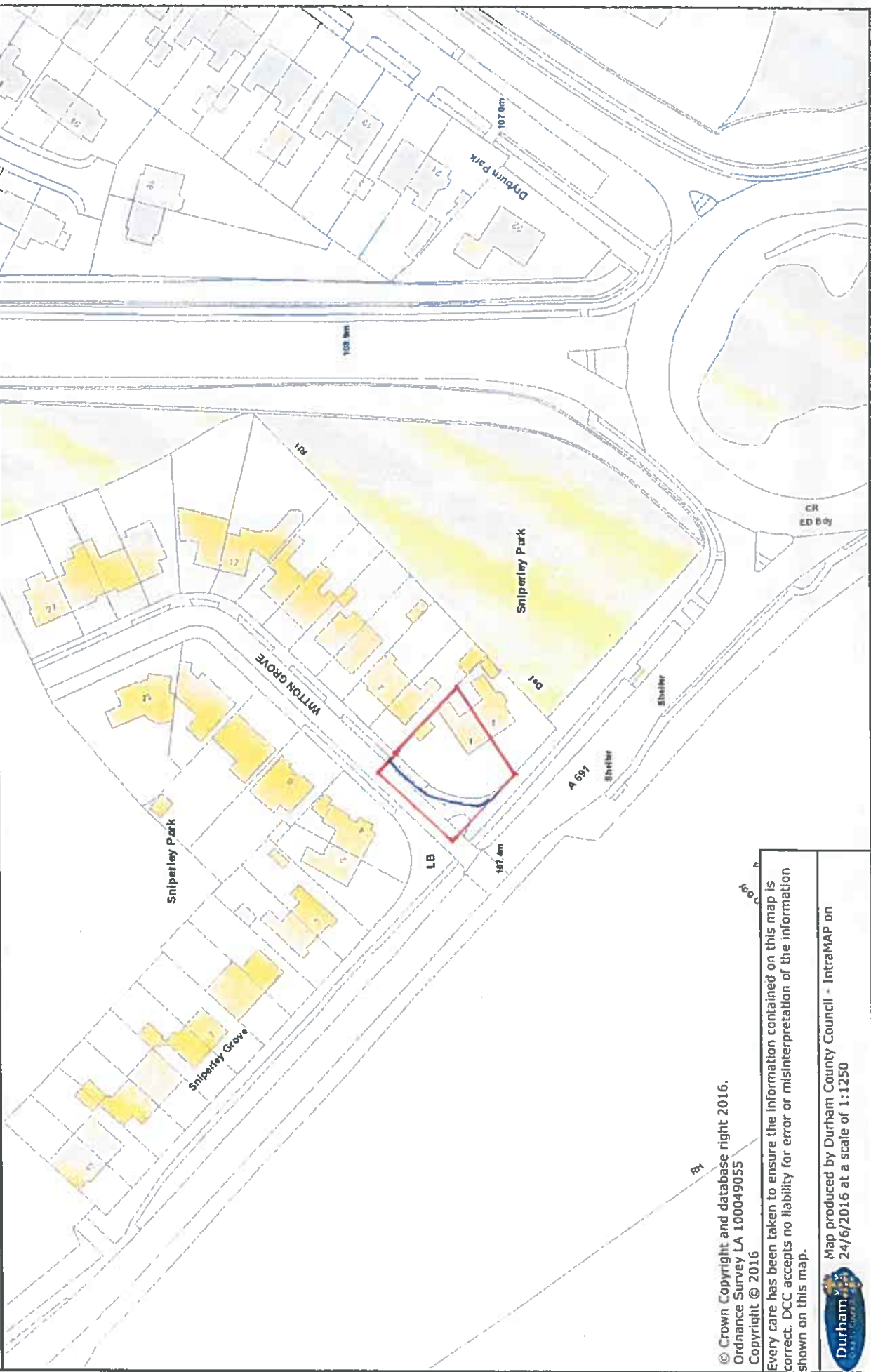
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Durham County Council - IntraMAP



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24/6/2016 at a scale of 1:1250



Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/15/00976



Sandra Burton
3 Witton Grove
Framwellgate Moor
Durham
DH1 5AB

24th June 2016

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

ENFORCEMENT NOTICE RELATING TO UNAUTHORISED

Land is being enclosed as garden curtilage, allegedly without planning approval for change of use. at

3 Witton Grove Framwellgate Moor Durham DH1 5AB

Durham County Council has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the following, who it is understood also have an interest in the land:

Mr D Robson

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 25th July 2016 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.

Copies of the Enforcement Notice appeal forms should be obtained directly from the Planning Inspectorate at Room 3/13 Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN :-

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Regeneration and Economic Development

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall, Durham DH1 5UL

'Enforcement Appeals: procedural guide and 'Enforcement Notice Appeals: how to complete your enforcement appeal form'.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 25th July 2016.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

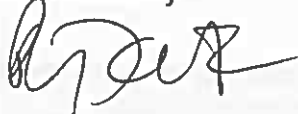
Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee; the amount of the fee is dependent on the type of development undertaken and is double that payable for a normal planning application. In this case the Council has calculated the fee to be £770 which must be paid to the Council (made payable to Durham County Council). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should provide the Planning Inspectorate with a Statement setting out briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Planning Inspectorate will send you a notice requiring you to do so within 14 days.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Enforcement Notice, 2 copies, Reg5 Explanatory Note, PINS leaflet

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land at 3 Witton Grove Framwellgate Moor Durham DH1 5AB registered under HM Land Registry Title number DU153760. and shown edged red on the attached plan ("the Land")

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

Without planning permission the material change of use of the Land to Land is being enclosed as garden curtilage, allegedly without planning approval for change of use.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because:-

The development has a detrimental impact on the character and appearance of the area by unacceptably reducing an area of open space that forms an important part of a series of open spaces, resulting in an incongruent development which has a significant loss of amenity to the character of the area, contrary to policies H13, E5a, Q1 and Q9 of the City of Durham Local Plan.

The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.

5. **WHAT YOU ARE REQUIRED TO DO**

- a. Permanently cease the use of the land as an extension to the domestic curtilage for 3 Witton Grove, Durham
- b. Dismantle and permanently remove from the site the timber post and rail fence shown lined in blue on attached plan.

6. **TIME FOR COMPLIANCE**

"Time for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

56 days from the date on which this notice takes effect (avoidance of doubt 20th September 2016)

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on *25th July 2016* unless an appeal is made against it beforehand.

Dated : *24/6/16*

Signed: *Stuart Timmiss* Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

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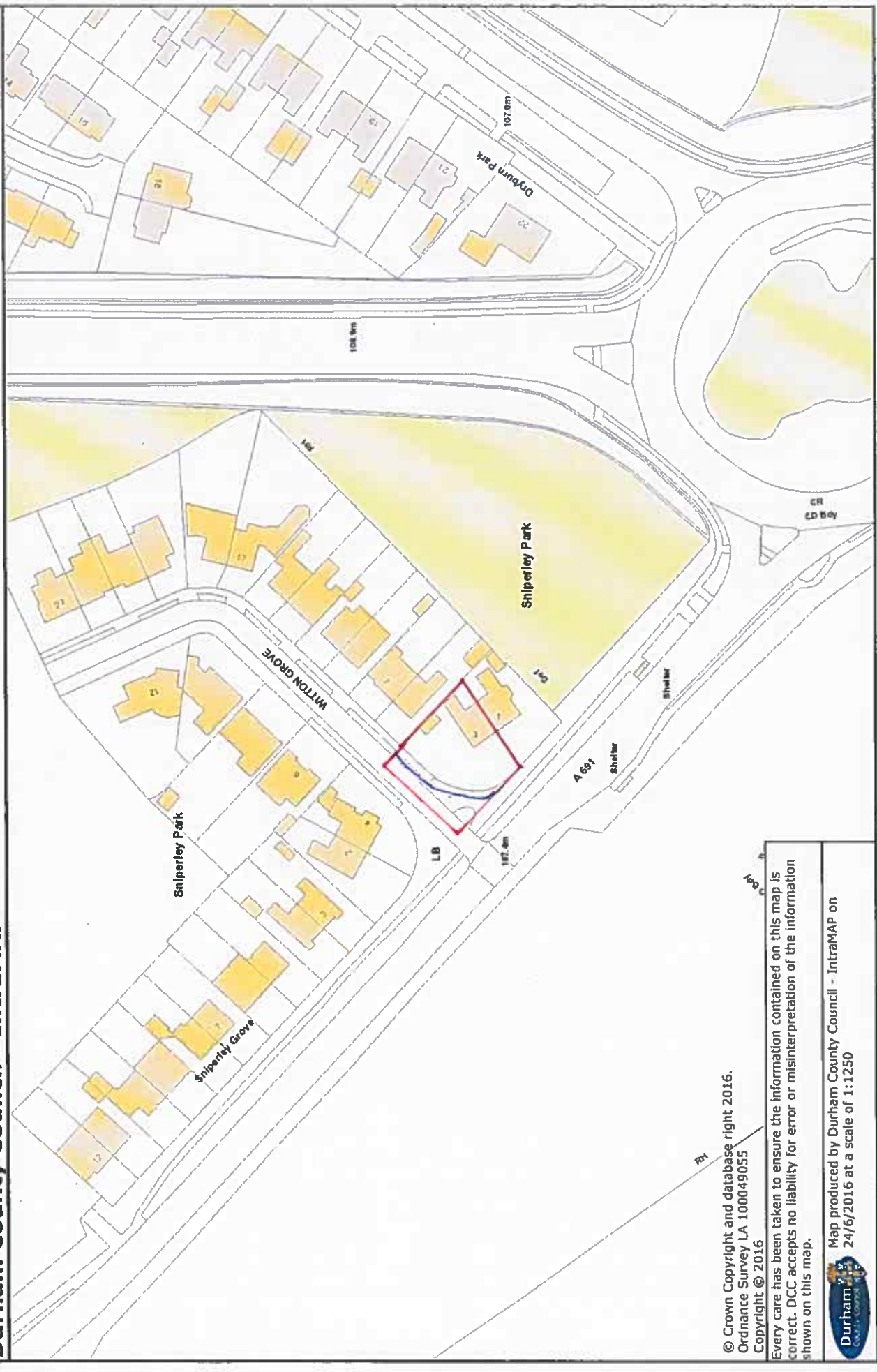
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Durham County Council - IntraMAP



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Map produced by Durham County Council - IntraMAP on
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IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

MATERIAL CHANGE OF USE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control under 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**

Land to the south Of Quickburn Quarry and Drover House Lane, Satley, Co Durham and registered under HM Land Registry Title number DU158649 and shown edged red on the attached plan ("the Land")

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

Without planning permission the material change of use of the land to leisure use including all off road motor sport activities, incorporating ancillary operational development consisting of the development of a motor sport track that has included the forming of earth mounds to form jumps and undulations along with the forming earth banking to the corners of the track.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years

The Council considers it expedient to issue this notice because planning consent as per application DM/15/02137/FPA has been refused as :-

The use of the land will significantly compromise the rural character of countryside tranquillity within the AONB designated landscape, and further be visually obtrusive in the landscape, contrary to relative weight given to Policies EN1, EN5 and EN26 in the saved policies of the Derwentside District Local Plan and the advice in the NPPF.

The use will generate noise of an adverse impact to a degree likely to compromise the protection of the amenities of neighbouring occupiers and land users, and in particular, those residential properties in Drover House Lane, contrary to the relative weights given to Policies GDP1 and EN26 of the saved policies in the Derwentside District Local Plan taking into account the advice set out in the NPPG.

5. WHAT YOU ARE REQUIRED TO DO

1. Cease the use of the land for all motor sport activities and events.
2. Permanently remove all of the physical alterations to raise the land form to create undulations and jumps within the off road motor sport track.
3. Permanently remove the earth banking from all of the corners of the off road motor sport track.
4. Level the land at 2 & 3 above to that of its level prior to the physical alterations being undertaken.
5. Re-fill and level any excavated areas of land on or adjacent to the off road motor sport track to their original land levels.
6. Permanently remove the stakes and reflective tape used to define the boundaries and route of the course.
7. Allow the land to regenerate naturally.

6. TIME FOR COMPLIANCE

Time for compliance means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Steps 1 – 6 above - 6 calendar months

Step 7 – No given time frame

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on Monday 25th July 2016 unless an appeal is made against it beforehand.

Dated: 20/11/16

Signed: Y. A. Clarke..... Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Development
Planning Development (North),
Room G73-82, County Hall, Durham DH1 5UL

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State (Planning Inspectorate) **before the date specified in paragraph 7 of the notice.**

The Grounds on which you may appeal this notice are detailed in the accompanying letter and Regulation 5 information.

The Planning Inspectorate has an online 'Appeal Casework Portal' via their website <https://acp.planninginspectorate.gov.uk> where you can complete and submit your appeal documents. Alternatively Copies of the appropriate Enforcement Notice appeal forms can be obtained from the Planning Inspectorate on 0303 4445000 or by email enquiries@pils.gov.uk. Due to the limited time in which you have to appeal you are strongly advised to use the Appeal Casework Portal of the Planning Inspectorate's website rather than relying on the postal service.

The postal address for completed appeal forms is:

The Planning Inspectorate, PO Box 326, Bristol BS99 7XF

Guidance on the enforcement notice appeal process and how to appeal and use the Appeal Casework Portal is available on the internet at www.gov.uk/appeal-enforcement-notice providing links to the Portal and guidance documents "Enforcement Appeals: procedural guide" and "Enforcement Notice appeals: how to complete your enforcement appeal form".

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in section 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in section 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

If you require any professional advice or guidance on the appeals process, then please use the website <https://acp.planninginspectorate.gov.uk> or the Royal Town Planning Institute (RTPI) www.rtpi.org.uk

H.M. LAND REGISTRY

TITLE NUMBER

ORDNANCE SURVEY
PLAN REFERENCE

NZ 0742 NZ 0842

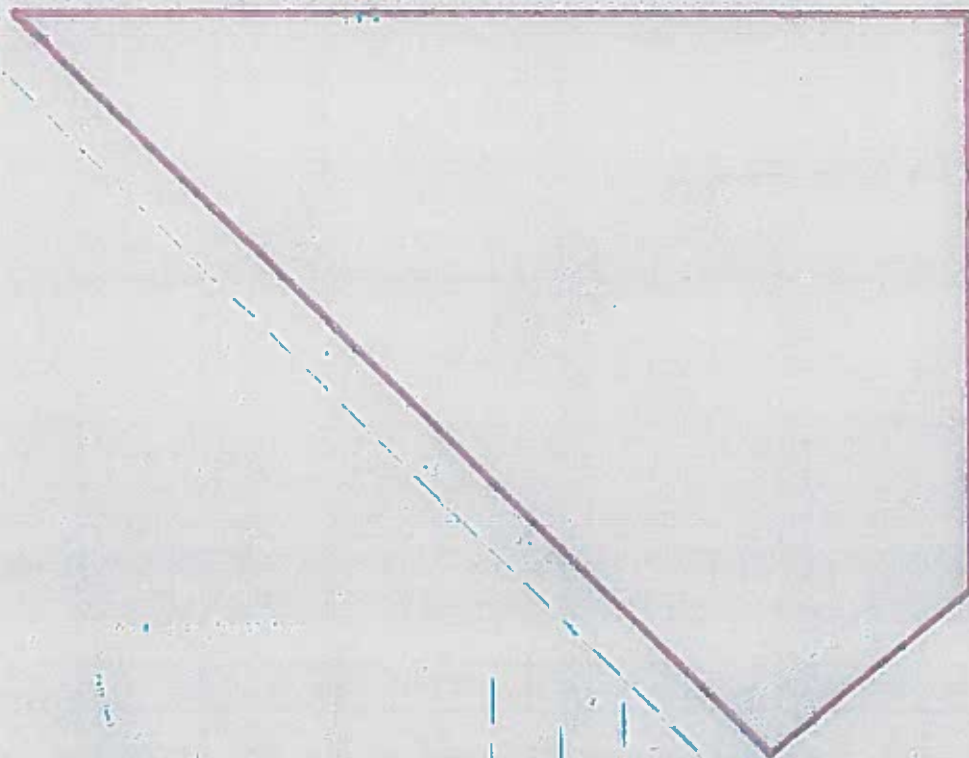
Scale
1:2500

COUNTY

DURHAM

DISTRICT

2. Drawn to Scale



NEAR VALLEY DISTRICT



ENFORCEMENT NOTICE EXPLANATORY NOTE

Extract from the Town & Country Planning Act 1990 (as amended)

Section 171A – Expressions used in connection with enforcement

- (1) For the purposes of this Act—
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) the issue of an enforcement notice (defined in section 172); or
 - (b) the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.
- (3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act. 1971 Act.]

Section 171B – Time Limits

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

Section 172 - Power to issue enforcement notice

- (1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them—
 - (a) that there has been a breach of planning control; and
 - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
 - (a) on the owner and on the occupier of the land to which it relates; and
 - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
 - (a) not more than twenty-eight days after its date of issue; and
 - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 172A - Assurance as regards prosecution for person served with notice

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.

Section 173 - Contents of enforcement notice

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—
- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
 - (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.
- (12) Where—
- (a) an enforcement notice requires the construction of a replacement building; and
 - (b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A - Variation and withdrawal of notice

- (1) The local planning authority may—
- (a) withdraw an enforcement notice issued by them; or
 - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

Section 174 - Appeal against enforcement notice

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) that those matters have not occurred;
 - (c) that those matters (if they occurred) do not constitute a breach of planning control;
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

- (e) that copies of the enforcement notice were not served as required by section 172;
 - (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
 - (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- (2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—
- (a) the land to which the enforcement notice relates is in England, and
 - (b) the enforcement notice was issued at a time—
 - (i) after the making of a related application for planning permission, but
 - (ii) before the end of the period applicable under section 78(2) in the case of that application.
- (2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.
- (3) An appeal under this section shall be made either—
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or
 - (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) In this section "relevant occupier" means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence in writing; and
 - (b) continues so to occupy the land when the appeal is brought.

Section 175 - Appeals: supplementary provisions

- (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—
- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) The notice to be prescribed under subsection (1) (c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

- (3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.
- (4) Where an appeal is brought under section 174 the enforcement notice shall be subject to any order under s.289(4A) be of no effect pending the final determination or the withdrawal of the appeal.
- (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

Section 176 - General provisions relating to determination of appeals

- (1) On an appeal under section 174 the Secretary of State may—
 - (a) correct any defect, error or misdescription in the enforcement notice; or
 - (b) vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.
- (3) The Secretary of State—
 - (a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and
 - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.
- (4) If section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177 - Grant or modification of planning permission on appeals against enforcement notices

- (1) On the determination of an appeal under section 174, the Secretary of State may—
 - (a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
 - (b) discharge any condition or limitation subject to which planning permission was granted;
 - (c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.]
- (1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—
 - (a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
 - (b) references to the local planning authority were references to the Secretary of State.
- (1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.

(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid, then, if the fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

The Planning Inspectorate

The Planning Inspectorate
Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

www.planning-inspectorate.gov.uk

Telephone – Customer Services 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 obtaining enforcement appeal forms by phoning us on 03034445000 or by emailing us enquiries@pins.qsi.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.

The postal address for completed appeal forms (England) is:

Enforcement and Lawful Development Certificate Appeals
The Planning Inspectorate
PO Box 326
Bristol BS99 7XF

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an Enforcement Notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

The Planning Perspective

1. The Planning Process

2. The Planning Process

3. The Planning Process

4. The Planning Process

5. The Planning Process

6. The Planning Process

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50. The Planning Process

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00236



Mr Sadeck Amin
25 Westhouse Avenue
Durham

23rd February 2017

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

**BREACH OF CONDITION NOTICE RELATING TO
breach of condition regarding extended opening hours outside the planning
consent. at
Urban Oven 94 Claypath Durham DH1 1RG**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that a condition imposed on planning permission 4/10/00697/FPA has not been complied with. I now serve on you a copy of that notice as you have an interest in the land.

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition specified within the notice or failed to undertake any of the steps specified within the notice, or the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully

Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has* not been complied with. The Council consider that you should be required to *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Urban Oven 94 Claypath Durham DH1 1RG registered under HM Land Registry Title number DU332092 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – 4/10/00697/FPA

Date granted - 16/11/2010

Description of development -

*Change of use from bookmaker to hot food takeaway (Class A5)
and erection of extract flu terminal (encased in a prefabricated
chimney) to 1m above ridgeline (revised and resubmitted)*

4. **THE BREACH OF CONDITION**

The following condition(s) have not been complied with:-

Condition 5) the hours of operation of the A5 hot food takeaway shall be between 9am and 11pm only and at no other time.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this Notice, you are required to *secure compliance* with the stated condition(s) by taking the following steps: -

- (1) Cease operating outside the permitted hours of 9am and 11pm.

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

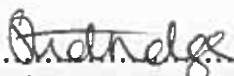
"Period for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Period for compliance: 28 days beginning with the day on which this Notice is served on you. (*not less than 28 days*)

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect **IMMEDIATELY** it is served on you in person or you receive it by postal delivery

Dated : 27/2/17

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence, under the provisions of Section 187A –ss(8)-(12) to fail to comply with the requirements of this Notice after the end of the compliance period.

You will then be at risk of **immediate prosecution** in the Magistrates Court, for which the any person found guilty of an offence shall be liable on summary conviction to a fine.

If you are in any doubt about what this Notice requires you to do you should get in touch **immediately** with the case officer.

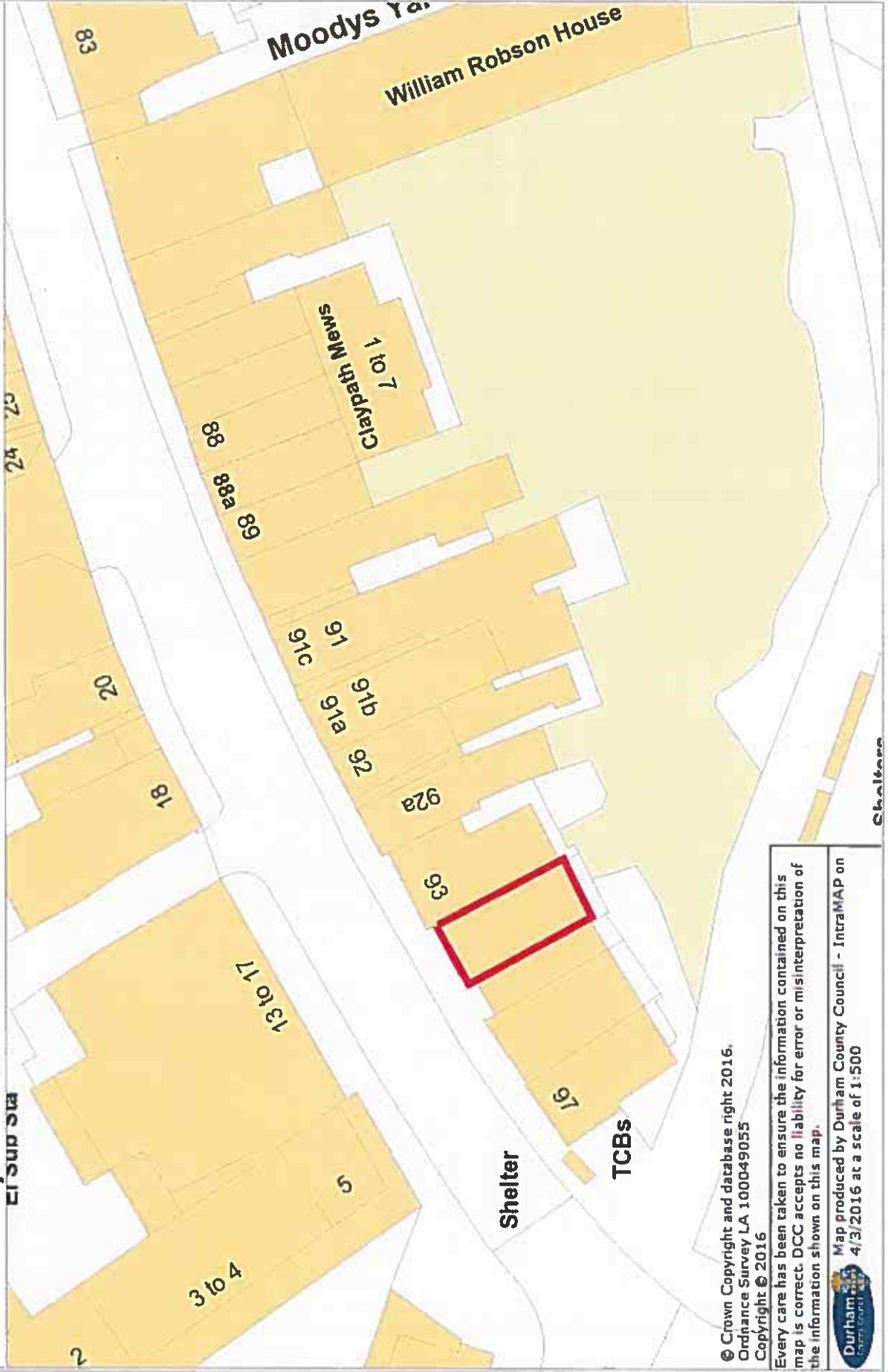
Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk

If you do need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

Do not leave your response to the last minute.

Durham County Council - IntraMAP

City Centre



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Map produced by Durham County Council - IntraMAP on 4/3/2016 at a scale of 1:500



Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00238



Mr Abdul Taha
2 Chadwick Close
Ushaw Moor
Durham
DH7 7RH

23rd February 2017

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

**BREACH OF CONDITION NOTICE RELATING TO
breach of condition regarding extended opening hours outside the planning
consent. at
Falafel Alhana 86 Claypath Durham DH1 1RG**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that conditions imposed on planning permission DM/16/03500/FPA have not been complied with. I now serve on you a copy of that notice as you have an interest in the land.

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition specified within the notice or failed to undertake any of the steps specified within the notice, or

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has not been complied with*. The Council consider that you should be required to *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Falafel Alhana 86 Claypath Durham DH1 1RG registered under HM Land Registry Title number DU244447 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – DM/16/03500/FPA

Date granted - - 20/12/2016

Description of development -

Change of use from A5 hot food takeaway to mixed use A3 restaurant/cafe and A5 hot food takeaway for temporary 10 year period or earlier time if the restaurant use ceases before the end of that period.

4. **THE BREACH OF CONDITION**

The following condition(s) have not been complied with:-

Condition 3) *The hours of operation shall not exceed 9am – 11pm for the use class A3 restaurant use on any day of the week.*

The hours of operation shall not exceed 9am- 11pm Sunday – Thursday and 9am- 3am on a Friday and Saturday for the use class A5 hot food takeaway use.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this Notice, you are required to *secure compliance* with the stated condition(s) by taking the following steps: -

- (1) *Cease operating outside the permitted hours 9am to 11pm on any weekday when the restaurant is operational.*
- (2) *Cease operating outside the permitted hours 9am to 11pm Sunday to Thursday) , and 9am to 3am on a Friday and Saturday for A5 (hot food takeaway)*

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

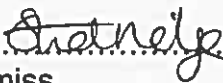
"Period for compliance" means the period of time in which the steps required within Section 5 of this Notice are required to have been undertaken.

Period for compliance: 28 days beginning with the day on which this Notice is served on you. *(not less than 28 days)*

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect **IMMEDIATELY** it is served on you in person or you receive it by postal delivery

Dated : 27/2/17

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE AGAINST THIS NOTICE.

It is an offence, under the provisions of Section 187A –ss(8)-(12) to fail to comply with the requirements of this Notice after the end of the compliance period.

You will then be at risk of **immediate prosecution** in the Magistrates Court, for which the any person found guilty of an offence shall be liable on summary conviction to a fine.

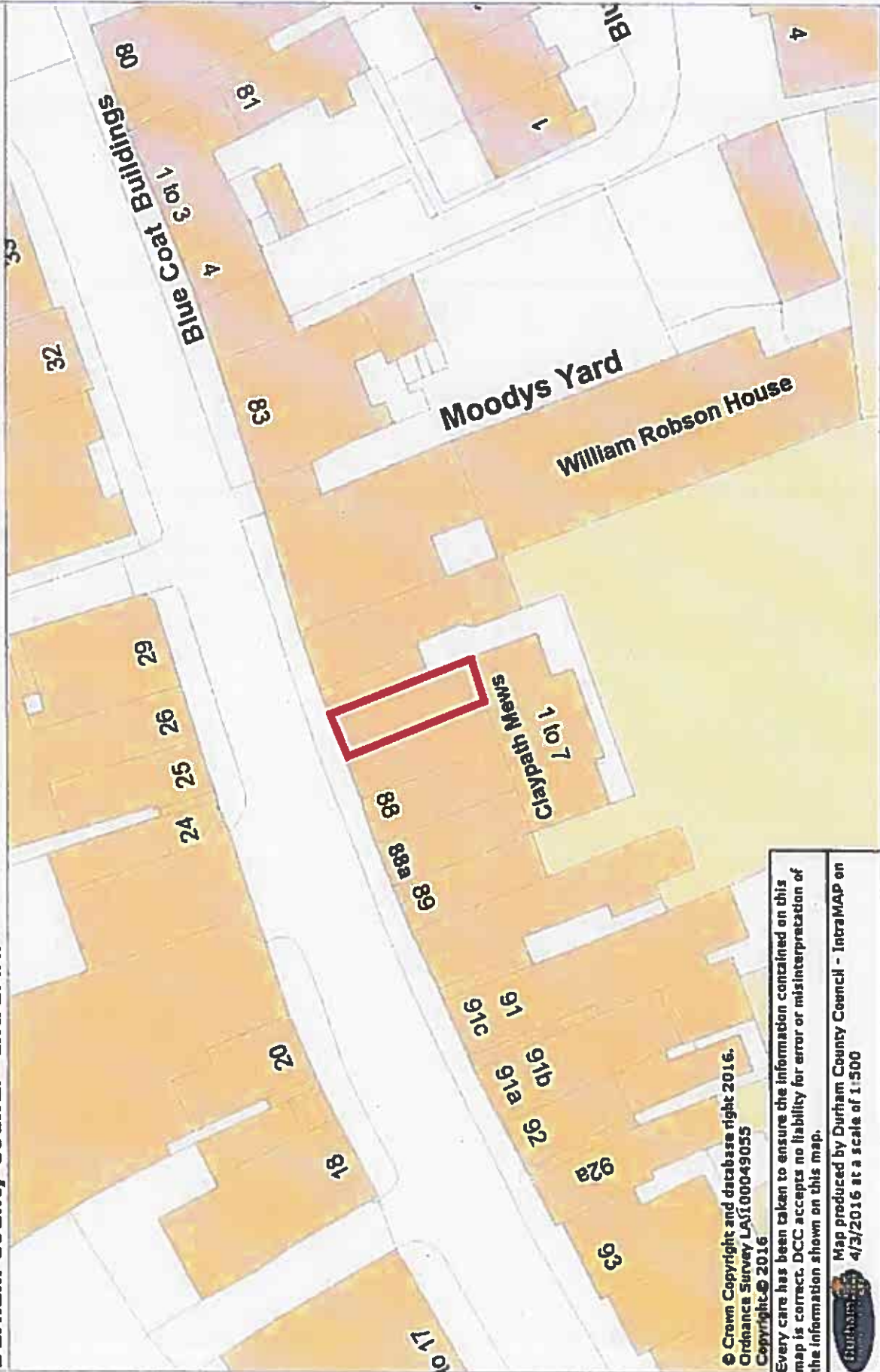
If you are in any doubt about what this Notice requires you to do you should get in touch **immediately** with the case officer.

Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk

If you do need independent advice about this Notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the Notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you on what this procedure involves.

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Durham County Council - IntraMAP



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Contact: Pam Glaister
Senior Enforcement Officer
Direct Tel: 03000 263966
email: pamela.glaister@durham.gov.uk
Your ref:
Our ref: EN/16/00240



Mr Khidir Babakir
1 Jessel Street
Low Fell
Gateshead
NE9 6EP

24th February 2017

Dear Sir/Madam

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Section 187A of TOWN & COUNTRY PLANNING ACT 1990 (as amended)

**BREACH OF CONDITION NOTICE RELATING TO
Breach of condition regarding extended opening hours outside the planning
consent at
Pizza Uno 92 Claypath Durham DH1 1RG**

Durham County Council has issued a breach of condition notice relating to the above land due to the fact that conditions imposed on planning permission 4/09/00251/ FPA have not been complied with. I now serve on you a copy of that notice as you have an interest in the land.

The Notice details in Section 5 the actions that you are required to undertake to comply with the notice.

There is no right of appeal to the Secretary of State (The Planning Inspectorate) against the notice.

The notice takes effect from the date of service/receipt of the notice, and you are thereafter responsible for compliance with the requirements of the notice within the time period specified within Section 6 of the notice.

I would also take this opportunity to advise you of the consequences of failing to comply with the requirements of the notice:

Under the provisions of section 187A subsection (9) of the Town and Country Planning Act 1990 (as amended), if after the expiry of the time period specified in the notice for compliance any person responsible for compliance with the notice has failed to comply with a condition specified within the notice or failed to undertake any of the steps specified within the notice, or

Regeneration and Local Services

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham DH1 5UL

the activities specified in the notice have not ceased, that person is in breach of the notice and he shall be guilty of an offence.

A first offence is liable to a fine up to a maximum of £1000. A second offence is liable to a fine of up to £100 per day for every day after the first conviction.

The Council will commence prosecution proceedings should you fail to comply with the requirements of this notice.

If you have any queries regarding the requirements of the notice or the enforcement process please contact the case officer.

Please acknowledge receipt of this letter and enclosures.

Yours faithfully



Pam Glaister
Senior Enforcement Officer

Enc Breach of Condition Notice

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

BREACH OF CONDITION NOTICE

ISSUED BY: THE COUNTY COUNCIL OF DURHAM ('the Council')

1. **THIS BREACH OF CONDITION NOTICE** ("the Notice") is issued by the Council, under section 187A of the above Act, because it considers that a *condition* imposed on a grant of planning permission, relating to the Land described in paragraph 2 below *has* not been complied with. The Council consider that you should be required *secure compliance* with the *condition* specified in this Notice.

Important additional information is given in the Annex to this notice.

2. **THE LAND TO WHICH THIS NOTICE RELATES**

Land at Pizza Uno 92 Claypath Durham DH1 1RG registered under HM Land Registry Title number DU100665 and shown edged red on the attached plan ("the Land")

3. **THE RELEVANT PLANNING PERMISSION TO WHICH THIS NOTICE RELATES**

The relevant planning permission to which this Notice relates is the permission granted by the Council as Local Planning Authority:-

Reference number – 4/09/00251/FPA

Date granted - 1/06/2009

Description of development Change of use of existing retail unit and residential flat to mixed use of retail (A1), cafe/restaurant (A3), take-away (A5) and community centre with training and demonstration rooms (D1) at ground floor level and self-contained dwelling at first and second floors

4. **THE BREACH OF CONDITION**

The following condition(s) have not been complied with:-

Condition 4) *the use of the property as a retail shop and a café and hot food takeaway shall be open to the public between Monday and Sunday 9am to 11pm and at no other times unless otherwise agreed in writing by the Local Planning Authority.*

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach(es) of condition(s) specified in paragraph 4 of this Notice, you are required to *secure compliance* with the stated condition(s) by taking the following steps: -

- (1) *Cease operating outside the permitted hours 9am to 11pm between Monday to Sunday.*

6. PERIOD FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS NOTICE

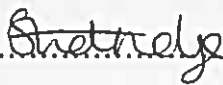
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Dated : 27/2/17

Signed:  Duly Authorised by the Council on behalf of
Stuart Timmiss,
Head of Spatial Policy, Planning & Assets

On behalf of
The County Council of Durham
Regeneration and Local Services
Planning Development (Central East),
Room 4/86-102, County Hall, Durham DH1 5UL

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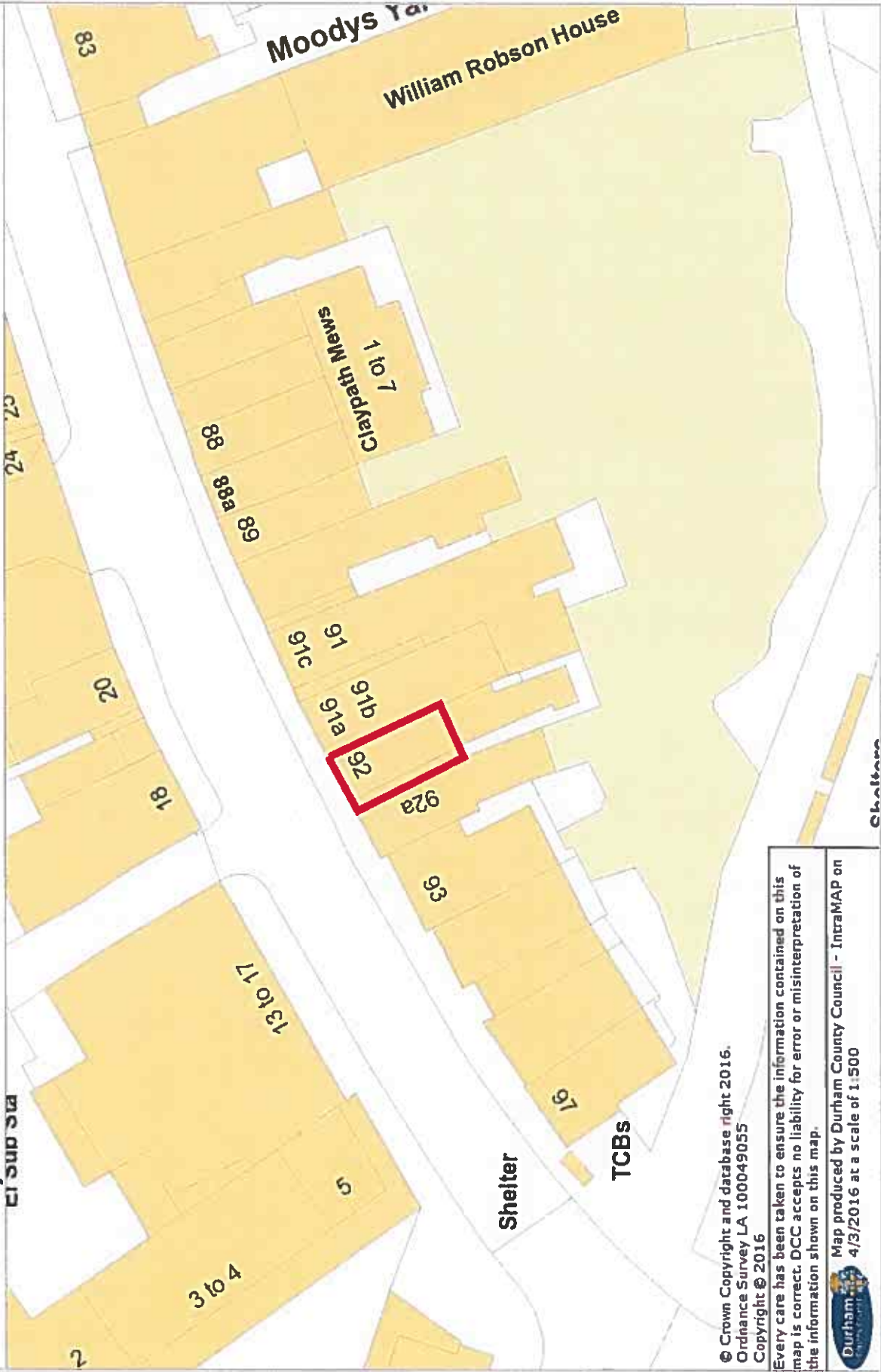
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Senior Enforcement Officer
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Durham County Council - IntraMAP

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