

ENFORCEMENT NOTICE

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: HINCKLEY & BOSWORTH BOROUGH COUNCIL ("The Council")

1. **THIS NOTICE** is issued by the Council because it appears to it that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the Land described below. The Council 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 THE NOTICE RELATES**

Land at Land known as The Allotment Gardens, Newtown Linford Lane, Groby, Leicestershire ("the Land") as shown edged in bold on the attached plans.

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

Without planning permission, the material change of use of the Land to a mixed use for the maintenance, repair, and storage of motor vehicles and equipment, general storage, waste deposit, processing and transfer, agriculture, and the erection of a building ("the Unauthorised Development")

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The unauthorised development has been undertaken without the benefit of planning permission. It appears to the Council that the unauthorised change of use has occurred within the last ten years and it is expedient for the Local Planning Authority to take enforcement action to remedy the breach of planning control.

The unauthorised development has been undertaken in an area designated as Green Wedge as identified within the adopted Hinckley and Bosworth Borough Council Core Strategy 2009. Any land uses should protect or enhance the visual appearance and the ecological value of the area to which the unauthorised change of use fails these requirements.

The unauthorised development, within the open countryside in an unsustainable location introduces an incongruous form of development that has an adverse impact on the intrinsic value, beauty, open and landscape character of the countryside contrary to Policies DM1, DM4 & DM10 of the Site Allocations and Development Management Policies DPD adopted 2016.

Development has been intentionally undertaken without planning permission which must weigh against the grant of planning permission following the written ministerial statement of 31 August 2015, Green Belt protection and intentional unauthorised development.

5. WHAT YOU ARE REQUIRED TO DO TO REMEDY THE BREACH OF PLANNING CONTROL – s173(4)(a)

- 1) Cease the use of the Land as a mixed use for the maintenance, repair, and storage of vehicles and equipment, general storage, waste deposit, processing and transfer;
- 2) Remove all items associated with the unauthorised development from the Land, including but not limited to all vehicles, vehicles parts, trailers, wheels, tyres, tools, oils, lubricants, waste, lorry bodies, the metal entrance gates, and any other items associated with the unauthorised development of the Land;
- 3) Remove the building shown in the attached photograph and marked 'X' on the attached plan;
- 4) Restore the Land to its condition before the unauthorised development took place.

6. TIME FOR COMPLIANCE

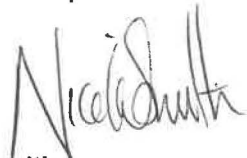
6 months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 11 November 2020 unless an appeal is made against it before that date.

Dated: 30 September 2020

Signed:



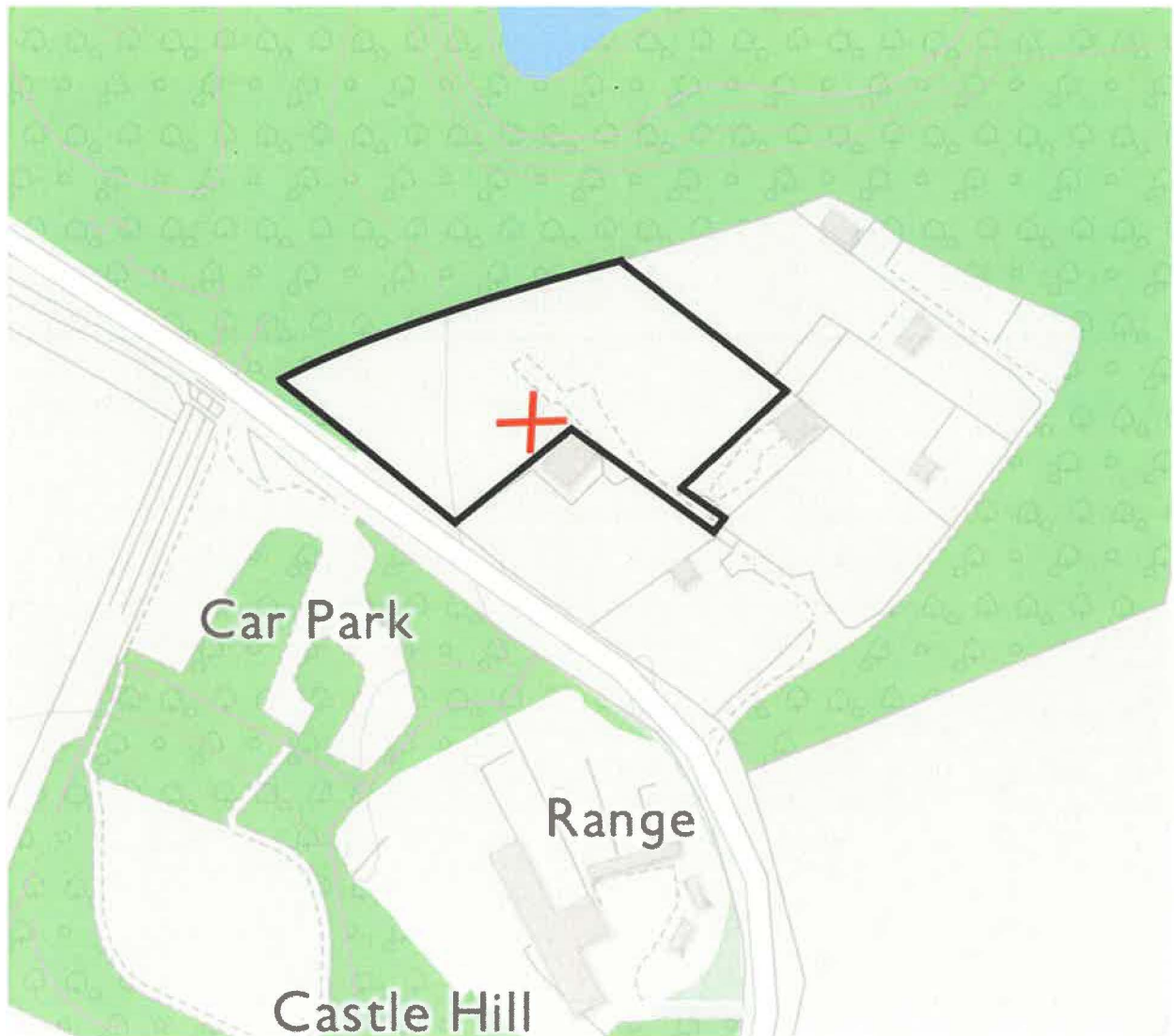
Nicola Smith
Planning Manager (Development Management)

On Behalf of:-

Hinckley & Bosworth Borough Council, Hinckley Hub, Rugby Road, Hinckley,
Leicestershire, LE10 0FR.

**The Allotment Gardens, Newtown Linford Lane, Groby, Leicestershire
("the Land").**

Approximate Location of Building marked 'X'



**The Allotment Gardens, Newtown Linford Lane, Groby, Leicestershire
("the Land").**

Building marked 'X' on plan above



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 Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal
[link to <http://www.planningportal.gov.uk/uploads/pins/enfinfosheet.pdf>]

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.

YOUR RIGHT OF APPEAL

You can appeal against this notice, provided the appeal is received or posted in time to be received by the Secretary of State by the date specified at Schedule 7 of the Enforcement Notice. 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 (<https://acp.planninginspectorate.gov.uk>)

OR

- by getting enforcement appeal forms by phoning **The Planning Inspectorate on 0303 444 5000** or by emailing them at **enquiries@pins.gsi.gov.uk**

You **MUST** make sure that **The Planning Inspectorate** receive your appeal **before the effective date** on the enforcement notice. In the 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

The Planning Inspectorate must receive this before the effective date on this notice. This should be immediately followed by your completed appeal forms. For further information, please contact **The Planning Inspectorate** at:

IF YOU APPEAL

If you lodge an appeal then you must submit to the Secretary of State, a statement in writing specifying **the grounds on which you are appealing against the enforcement notice** and stating briefly the facts that you proposes to rely on, in support of each of these grounds, EITHER when giving notice of appeal OR within 14 days from the date that the Secretary of State sends you a notice that requires you to send a statement

GROUND OF APPEAL

(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-**

Ground 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;

Ground B - that those matters have not occurred;

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

Ground 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;

Ground E - that copies of the enforcement notice were not served as required by section 172;

Ground 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;

Ground 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.

(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; and

(b) continues so to occupy the land when the appeal is brought.

Please note the 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.

The time limits do not apply when there has been deliberate concealment.

The information contained within this notice is a summary of sections 171A, 171B and 172-177 of the Town and Country Planning Act, 1990.

For the full sections of the act please

see:<http://www.legislation.gov.uk/ukpga/1990/8/part/VII>

APPEAL FEE: £2948.40

If you wish to have your appeal also considered as a deemed application for planning permission or you intend to make an appeal under Ground (A), you may be required to pay a fee. A fee may be payable under regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (7) for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice.

The application appeal fee for this case is £3732 (if you select Ground A and wish to apply for planning permission through the appeal process.) This amount is double the usual Planning Application fee. This is now payable ONLY to the Council. If the fee is set as £0, it means no fee payable in respect of this case. If you do not wish to proceed under Ground A then no fee is payable.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified at Schedule 7 of the Enforcement Notice. You may be held responsible and therefore you must ensure that the required steps detailed under the heading "What you are required to do", of Schedule 4 of this notice are complied with, within the period specified in this notice.

Failure to comply with an enforcement notice, that has taken effect, can result in prosecution and/or direct action by the Council. Direct Action will include the Council sending in its contractors to do the necessary works as required by this enforcement notice. The owner will have to pay for the cost of the Direct Action. If the bill for direct action is not paid, it will remain as a land charge accruing interest at 8% above the Bank of England base rate until it is paid. The Council may also pursue debt recovery proceedings through the courts.

If a criminal conviction is obtained for a breach of the enforcement notice, any revenue accrued may result in the Council pursuing that revenue under the Proceeds of Crime Act 2002.

PERSONS SERVED WITH ENFORCEMENT NOTICE

Town and Country Planning (Enforcement Notices & Appeals) (England) Regulations 2002 Part 2, 5(c)

The owner, occupier, and any other person with an interest in the Land at Land known as The Allotment Gardens, Newtown Linford Lane, Groby, Leicestershire ("the Land").

Jason McDonaugh, Land to the North of Newtown Linford Lane, Groby, Leicestershire, LE6 0FF

Jason Arthur McDonaugh, 270 Loughborough Road, Leicester, LE4 5LH

Jason McDonaugh, 38 Reynolds Place, Leicester, LE3 1EU

Jason McDonaugh, 65 Doncaster Road, Bristol, Avon, BS10 5PP

Jason Arthur McDonaugh, 27 Thirlmere Road, Patchway, Bristol, BS34 5PD

Arthur Oliver McDonagh, 270 Loughborough Road, Leicester, LE4 5LH

Arthur Oliver McDonagh, 38 Reynolds Place, Leicester, LE3 1EU



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

Direct Line 0303-444 5000
Email enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

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

- ☐ on-line at the Appeals Casework Portal
[\(https://acp.planninginspectorate.gov.uk/\)](https://acp.planninginspectorate.gov.uk/); or
- ☐ sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at

<https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- ☐ the name of the local planning authority;
- ☐ the site 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.