

# Hinckley & Bosworth Borough Council

## **IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY**

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

**ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE**

**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 1721 A(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 this notice and the enclosures to which it refers contain important additional information.

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

Land East of Higham Lane, Stoke Golding ("the Land") as shown edged in red on the attached plan.

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

Without planning permission the material change of use of the Land from agricultural use to use as a dog day-care facility (Sui Generis use)

### **4. REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred on the land within the last ten (10) years without the benefit of planning permission.

The reason for issuing this notice follows the refusal for retrospective planning permission under Hinckley and Bosworth Borough Council planning reference 21/00251/FUL, decision notice dated 27 July 2021.

The unauthorised use does not represent sustainable growth and expansion of a business in a rural area as per paragraph 84 of the

NPPF (2021). It is therefore considered that the proposal fails to satisfy Criterion 'C' of Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document (2016).

Furthermore, unauthorised use constitutes a form of uncharacteristic development that would significantly harm the tranquil, open character and appearance of the application site and thus erode part of the intrinsic value and beauty of the countryside, contrary to Policy DM4, of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 9, 130 (c) and 174 (b) of the National Planning Policy Framework (2021).

The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

**5. WHAT YOU ARE REQUIRED TO DO TO REMEDY THE BREACH OF PLANNING CONTROL**

- a) Cease the use of the Land as a dog day-care business
- b) Remove all equipment, materials and any other associated items used in connection with the unauthorised use from the Land

**6. TIME FOR COMPLIANCE**

The period of compliance for both 5 a) and 5 b) shall be three (3) months after this notice takes effect.

**7. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on the 25<sup>th</sup> October 2021 unless an appeal is made against it beforehand.

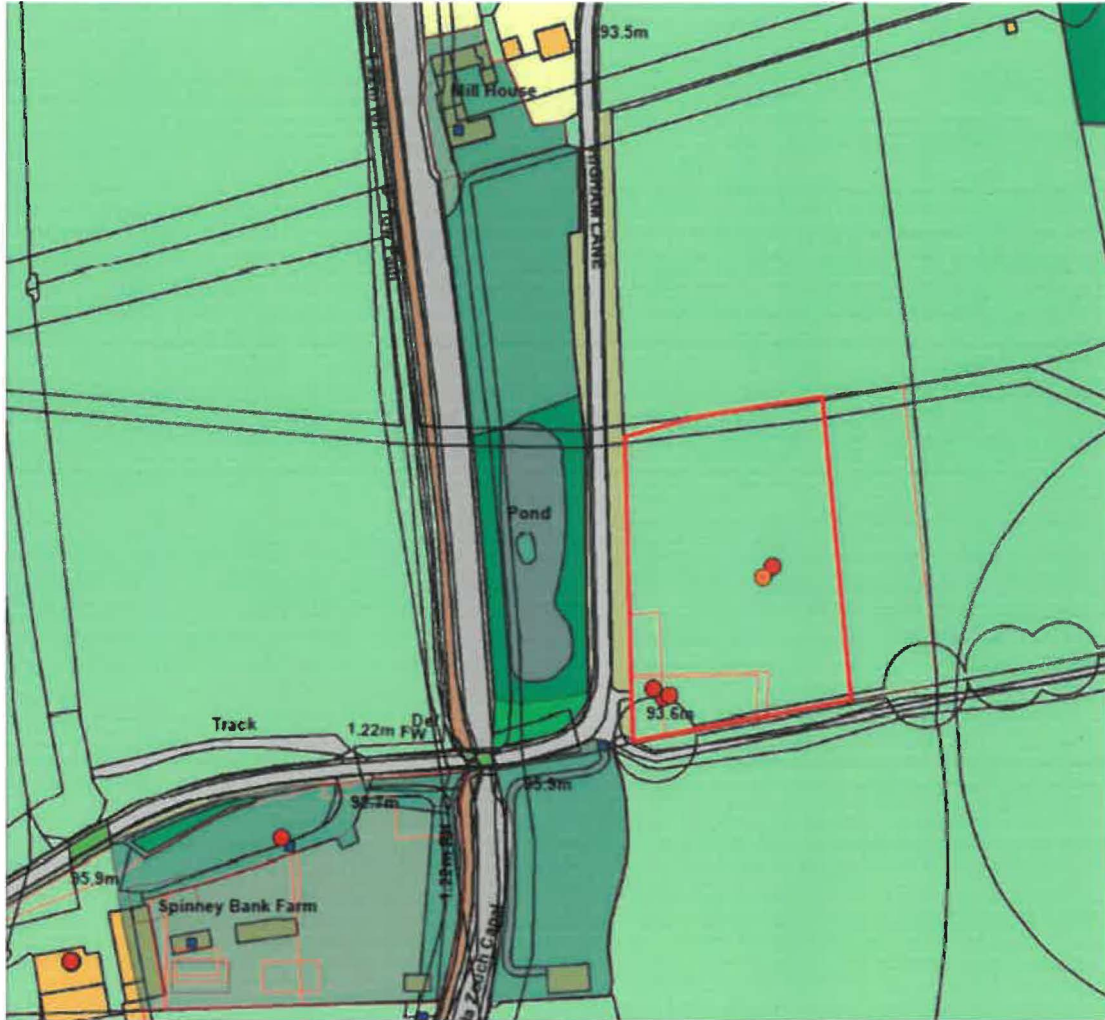
Dated: 23<sup>rd</sup> September 2021

Signed: 

Authorised Officer  
Hinckley & Bosworth Borough Council  
Hinckley Hub  
Rugby Road  
Hinckley  
Leicestershire  
LE10 0FR

Site Location Plan

Land East of Higham Lane, Stoke Golding ("the Land").



## ANNEX

### 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](mailto: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 –

**Planning enforcement ref:**  
**21/00188/UNBLDS**

**EN21/00188/UNBLDS**

(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: £924**

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 £924 (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

**Planning enforcement ref:**

**21/00188/UNBLDS**

**EN21/00188/UNBLDS**

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 5 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 THE ENFORCEMENT NOTICE**

The owner, occupier, and any other person with an interest in the Land East of Higham Lane, Stoke Golding ("the Land").

Anne Morris, Mulberry Farm, High Street, Stoke Golding, Nuneaton, CV13 6HF

Nilush Jordan Aponso, Nilz & Harley Pet Services, 5 Queen Street, Barwell, LE9 8EA



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

Direct Line 0303-444 5000  
Email [enquiries@planninginspectorate.gov.uk](mailto: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.