

ISSUING AUTHORITY: Slough Borough Council		REGISTER NUMBER 343
DATE OF COMMITTEE 24/09/2002	AUTHORITY (Delegated/committee) Committee	MINUTE NUMBER
ADDRESS OF ENFORCEMENT NOTICE Manor Farm, Poyle Road, Poyle, Slough.		
DATE OF ISSUE 3/03/2003	DATE OF SERVICE 3/03/2003	OFFICER IN CASE DM
DATE NOTICE TAKES EFFECT 11/04/2003		
DATE OF FINAL DETERMINATION/WITHDRAWAL OF APPEAL		
BREACH ALLEGED a) Without planning permission the carrying out of development by the making of a material change of use of the land by using the land as a caravan and/or mobile home park. b) Without planning permission the carrying out of development by surfacing the land with hard surfacing, the installation of bunding, the erection of fencing and the construction of a facility building.		
REQUIREMENTS OF NOTICE a) Remove from the Land all caravans and/or mobile homes and b) Remove from the Land all hard surfacing, bunding and other structures including fencing and the facility building from the Land and to restore the Land to agricultural use by reseeded by the end of the planting season following this Notice taking effect.		
PERIOD FOR COMPLIANCE a) Two months after this notice takes effect. b) Six months after this notice takes effect.		
APPEAL METHOD: PUBLIC ENQUIRY <input type="checkbox"/> INFORMAL HEARING <input type="checkbox"/> WRITTEN REPRESENTATIONS <input checked="" type="checkbox"/>		
NEW DATE NOTICE TAKES EFFECT BY REASON OF APPEAL		
STOP NOTICE DATE	DATE NOTICE WITHDRAWN	
ACTIVITY PROHIBITED BY STOP NOTICE		
DATE ON WHICH LOCAL PLANNING AUTHORITY SATISFIED NOTICE HAS BEEN COMPILED WITH		
REMARKS <i>Appeal succeeds in part only and the enforcement notice is upheld with variations.</i>		

* Delete as appropriate

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ISSUED BY SLOUGH BOROUGH COUNCIL

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

ENFORCEMENT NOTICE

TO: The Owners and Any Occupiers Mr Cecil Wiggins
Land West of Poyle Road - Fairmeadow
South of Poyle Channel, 168 Hithermoor Road
Manor Farm Stanwell Moor
Poyle Road Middlesex TW19 6BB
Poyle
Slough
Berkshire

Mrs. Alison Wiggins Wiggins Transport Limited
Manor Farm Hyde House
Poyle Road 19 Station Road
Poyle Addlestone
Slough Berks Surrey KT15 2AL

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 Section 171A(1)(a) 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 all other material planning considerations.
2. **THE LAND AFFECTED**

The land or premises shown edged red on the plan annexed hereto and known as Land West of Poyle Road/South of Poyle Channel, Manor Farm.
3. **THE BREACH OF PLANNING CONTROL ALLEGED**
 - a) Without planning permission the carrying out of development by the making of a material change of use of the land by using the land as a caravan and/or mobile home park.
 - b) Without planning permission the carrying out of development by surfacing the land with hard surfacing, the installation of bunding, the erection of fencing and the construction of a facility building.

4. REASONS FOR THIS NOTICE

It appears to the Council that the above breaches of planning control have occurred within the last: -

- a) ten years b) four years

The reasons for the issue of this notice are: -

1. The development is contrary to Policy CG5* which seeks to control development in Green Belt as the development is not considered appropriate development and the no special circumstances exist to justify inappropriate development;
2. The development is contrary to Policy CG6* which seeks to maintain settlement separation, as the development extends the built up area of Poyle into the strategic gap;
3. The development is contrary to Policy CG1* which seeks to protect the Colne Valley Park in that the development involves urbanisation of Park, constitutes inappropriate development in the countryside, and adversely affects the landscape of the Park;
4. The development is contrary to Policy 35A* which seeks to protect the floodplain from development as the development would remove land from the flood plain, would restrict the flow of flood water, reduce flood storage capacity and increase the number of people at risk from flooding;
5. The development is contrary to Policy EN30* which seeks to ensure that land is suitable for development as the development involves development of a former landfill, but no soil or groundwater assessment has been submitted to the Council;
6. The development is contrary to Policy EN32* which seeks to control development on former landfill sites as the development involves development of former landfill and no assessment of migration of landfill gas and other ground pollutants have been submitted to the Council;
7. The development is contrary to Policy EN34* which seeks to protect the water supply as the development includes a large area for car parking without installation of oil interceptors;
8. The development is contrary to Policy EN35* which seeks to protect the water environment as the development involves a more impervious surface and no greenfield runoff calculations or balancing flows have been submitted to the Council.

* of the review of the Local Plan for Slough Deposit draft as proposed for modification

5. WHAT YOU ARE REQUIRED TO DO

- a) Remove from the Land all caravans and/or mobile homes and
- b) Remove from the Land all hard surfacing, bunding and other structures including fencing and the facility building from the Land and to restore the Land to agricultural use by reseeding by the end of the planting season following this Notice taking effect.

Time for compliance: -

- a) Two months after this notice takes effect.
- b) Six months after this notice takes effect.

WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 11th April 2003 unless an appeal is made against it beforehand.

Dated: 3/3/02

Signed: *[Signature]*

On behalf of:

Slough Borough Council
Town Hall
Bath Road
Slough Berkshire SL1 3UQ.

SLOUGH BOROUGH COUNCIL

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

ANNEX TO ENFORCEMENT NOTICE

YOUR RIGHT TO 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 before the date specified in the notice, which is 11th April 2003. The Planning Inspectorate act on behalf of the Secretary of State.

The enclosed booklet "Making Your Enforcement Appeal" sets out your rights to appeal. **Please read the booklet carefully** as it sets out the grounds on which you may appeal and the information you must provide when appealing.

You may use the enclosed Planning Inspectorate appeal forms:

- (a) One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- (b) The second copy of the appeal form and the notice should be sent to the Council.
- (c) The third copy of the appeal form and the notice are for your own records.

If you appeal, this notice may be upheld, amended or quashed. The Planning Inspectorate will send you more information on the appeal process if you appeal.

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 the notice which is 11th April 2003

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 the notice which is 2 months and 6 months.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.



Appeal Decision

Site visit made on 25 July 2003

by **David Baldock MA DipTP DMS MRTPI**

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/09 Kings Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gov.uk

Date

- 8 AUG 2003

Appeal Ref: APP/J0350/C/03/1115252

Land west of Poyle Road/south of Poyle Channel, Manor Farm, Poyle

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr C Wiggins against an enforcement notice issued by Slough Borough Council.
- The Council's reference is P/11442/003.
- The notice was issued on 3rd March 2003.
- The breaches of planning control as alleged in the notice are:
 - (a) Without planning permission the carrying out of development by the making of a material change of use of the land by using the land as a caravan and/or mobile home park.
 - (b) Without planning permission the carrying out of development by surfacing the land with hard surfacing, the installation of bunding, the erection of fencing and the construction of a facility building.
- The requirements of the notice are:
 - (a) Remove from the land all caravans and/or mobile homes and
 - (b) Remove from the land all hard surfacing, bunding and other structures including fencing and the facility building from the land and to restore the land to agricultural use by reseeded by the end of the planting season following this notice taking effect.
- The period for compliance with the requirements is two months for requirement (a) and six months for requirement (b).
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal succeeds in part only and the enforcement notice is upheld with variations.

Ground (a) and the deemed application

1. The area containing the appeal site was within Spelthorne Borough until 1995. The development plan includes the Spelthorne Borough Plan adopted in 1991. On the proposals map the site is in the Green Belt, an area liable to flood, and a landscape improvement area. The Review of the Local Plan for Slough (RLP) is also at an advanced stage in relation to policies and proposals concerned with the appeal site and should be given considerable weight. The main policies relevant are:

CG5	Green Belt policy.
CG6	Resists development in the strategic gap between Slough and Greater London.
CG1	Criteria to be met if development of open areas in the Colne Valley Park is to be permitted.
EN35	Development not to be permitted where this would result in additional surface water run-off; where development increasing the risk of flooding is permitted, appropriate mitigation measures must be included.

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permission, as is described in paragraph 60 of PPG25. If permitted, it is probable that any works required to be undertaken would have to be completed before the use commenced.

6. The appellant argues that this is not an important consideration because the land has not flooded during the knowledge of the present owner (i.e. since at least 1979) and the risk resulting from a temporary planning permission would be slight. The development has included the construction of a bund adjoining the watercourse on the northern boundary of the site together with importation of surfacing materials. Advice on the location of caravan sites in areas liable to flood is in paragraph 70 of PPG25 but this does not relate to any consequential effects on other land of such uses and their associated works. In the absence of contrary evidence it is appropriate to assume that the development may have had some adverse effect on flooding impact. If planning permission were granted a condition could require further assessment and the implementation of any works shown to be necessary. At this stage it would be imprudent to assume that all harm from the development in this respect would be overcome. For example it may be that satisfactory measures against flooding create other adverse effects and the cost of works would have to be proportionate to the duration of the permission. Furthermore considerable delay could occur while necessary investigation work is carried out and planning conditions have to be reasonable in setting time limits and giving a right to appeal. As a minimum it could take 12 months for any works shown to be necessary to be carried out and potentially longer if agreement were not reached, the applicant's proposals were rejected, and a further appeal in this respect were lodged.

The need for the accommodation

7. The appellant's case is that the caravan accommodation is necessary for T5 construction workers. This is argued to be a project of national importance, as agreed when permission was granted. I accept that this general proposition is credible. The belated action by BAA to provide substantial additional accommodation for this purpose is corroborative. The appeal has received specific support from one contractor, who has stated that its contractual commitment is to provide a peak of 200 employees in the period to 2005. Subsequently the number of employees is said to have reached 260, with about 200 having caravans. It is also argued that those working in bulk earthmoving projects tend to be highly mobile and move between jobs living in caravans.
8. The appeal is made seeking permission for three years, either by a grant of planning permission or by an extended period of compliance. The use of the site seems to have commenced in about July 2002 and the planning application made in August sought permission for three years. The agent's representations dated July 2003 repeat the request for consent for three years. In the circumstances I am uncertain how long the use might continue if permitted. The basis of need put forward is very general. It does not give any overall impression of the scale of demand, provision being made (including hotels/hostels), or a reliable timescale. While I accept that the appeal is from a single source, a more comprehensive assessment would be needed for this to be given significant weight so as to constitute very special circumstances. I agree that the site appears to be run efficiently and does not harm amenity locally, but these are not good reasons to permit development in the Green Belt.

SLOUGH BOROUGH
COUNCIL
- 8 AUG 2003
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Formal Decision

13. In exercise of the powers transferred to me, I direct that:

A. The plan attached to this decision be substituted for the plan attached to the notice as issued;

B. The notice be varied as follows:

1. in paragraph 2, "the land affected, the word "red" be replaced by "black";
2. in paragraph 3 b), "the breach of planning control alleged", add after "surfacing the land" the words "hatched black on the attached plan";
3. in paragraph 5, "what you are required to do", deleting requirement b) and the times for compliance and substituting the following:

- b) Remove from the land all bunding and other structures including fencing and the facility building.
- c) Remove from the land hatched black all hard surfacing.
- d) Restore the land hatched black to agricultural use by reseedling.

Time for compliance:

- a) Seven months.
- b) Eleven months.
- c) Eleven months.
- d) By the end of the first planting season following the completion of requirement c).

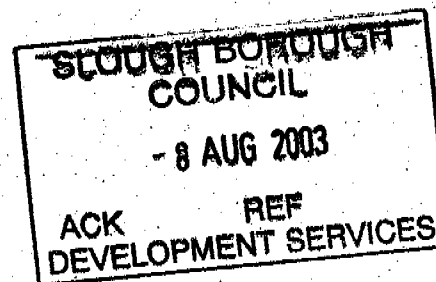
14. Subject to these variations I dismiss the appeal, uphold the notice and refuse planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

Information

15. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

David Diddell

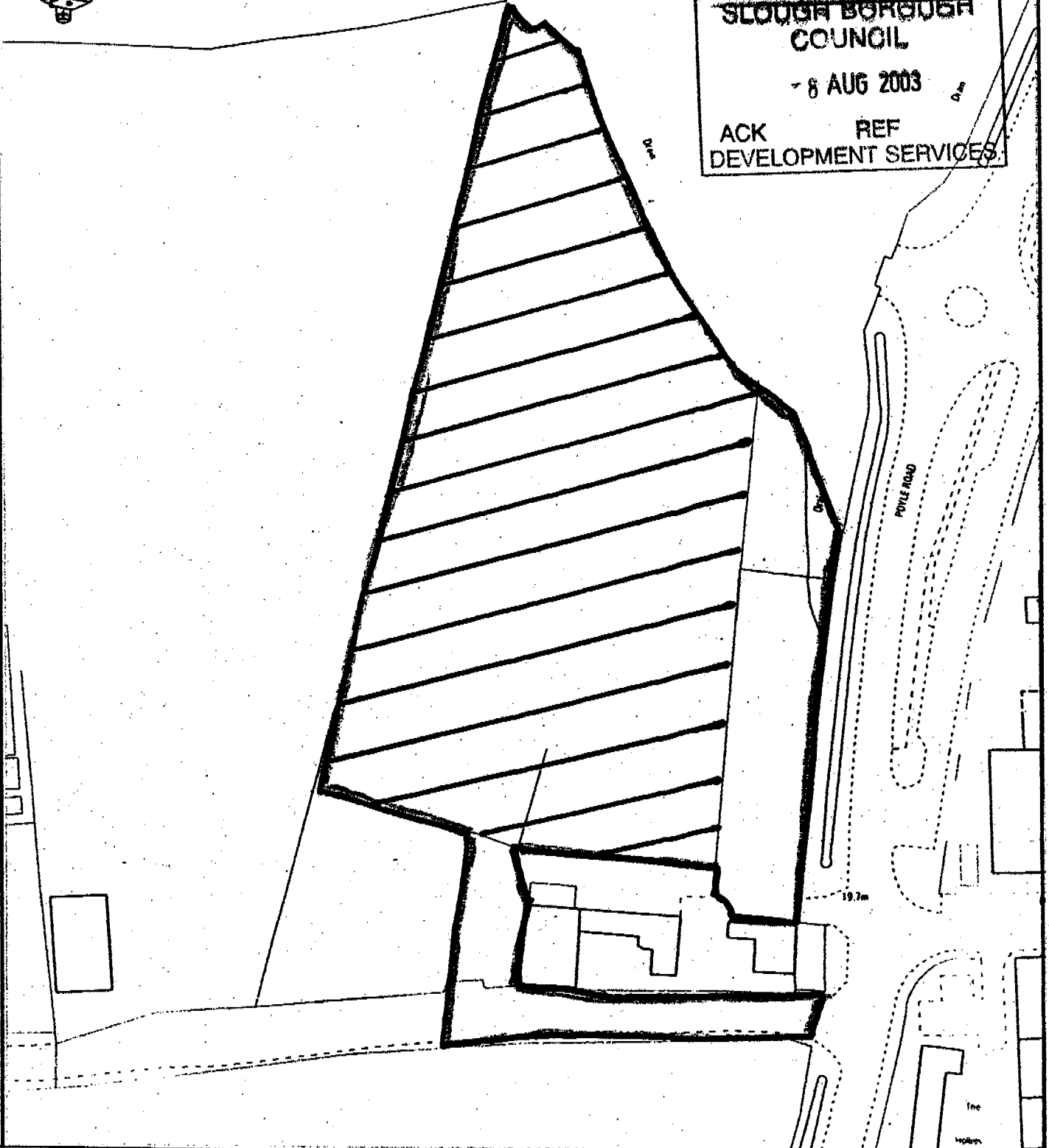
INSPECTOR





The Planning Inspectorate

SLOUGH BOROUGH
COUNCIL
- 8 AUG 2003
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Land west of Poyle Road/south of Poyle Channel,
Manor Farm, Poyle

This is the plan referred to in my decision,
dated: - 6 AUG 2003

Scale: 1:1250

David Baldock
David Baldock
Inspector

Appeal Reference: APP/J0350/C/03/1115252



The Planning Inspectorate

An Executive Agency in the Office of the Deputy Prime Minister and the

SLOUGH BOROUGH
COUNCIL

- 8 AUG 2003
National Assembly for Wales

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RIGHT TO CHALLENGE THE APPEAL DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts on a point of law. If a challenge is successful, the case will be returned to the Secretary of State by the Court for re-determination. However, if it is re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

Depending on the circumstances, an appeal may be made to the High Court under either or both sections 288 and 289 of the Town & Country Planning Act 1990. There are differences between the two sections, including different time limits, which may affect your choice of which to use. These are outlined below.

You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.

CHALLENGES UNDER SECTION 289

Section 289(1) relates to decisions on enforcement appeals. The appellant, the local planning authority or any person having an interest* in the land to which the enforcement notice relates may appeal to the High Court against the decision on a point of law.

An appeal under section 289 may only proceed with the leave (permission) of the Court. An application for leave to appeal must be made to the Court within 28 days of the date of the appeal decision, unless the period is extended by the Court.

If you are not the appellant, the local planning authority or a person with an interest in the land but you want to challenge an enforcement appeal decision on grounds (b) to (g), or the decision to quash the notice, you may make an application for judicial review. You should seek legal advice promptly if you wish to use this non-statutory procedure.

CHALLENGES UNDER SECTION 288 OF THE 1990 ACT

Decisions on appeals under section 78 (planning) or section 195 (Lawful Development Certificate) may be challenged under this section. Section 288 also relates to enforcement appeals, but only to decisions granting planning permission or discharging conditions. Success under section 288 alone would not alter any other aspect of an enforcement appeal decision. The enforcement notice would remain quashed unless successfully challenged under section 289 or by judicial review.

Section 288 provides that a person who is aggrieved by the decision to grant planning permission or discharge conditions (on an enforcement appeal) or by any decision on an associated appeal under s78 or s195 of the Act, may question the validity of that decision by an application to the High Court on the grounds that:-

- i) the decision is not within the powers of the Act; or
- ii) any of the 'relevant requirements' have not been complied with ('relevant requirements' means any requirements of the 1990 Act or of the Tribunals and Inquiries Act 1992, or of any order, regulation or rule made under either Act).

These two grounds mean in effect that a decision cannot be challenged merely because someone does not agree with an Inspector's judgement. Those challenging a decision have to be able to show that a

* To have an interest in the land means essentially to own, part own, lease and in some cases, occupy the site.