

## **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: Leicestershire County 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 (b) of section 171A(1) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.

**N.B. 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 the former Lounge Disposal Point, off A512 Ashby Road, Ashby-de-la-Zouch, Leicestershire, shown edged red on the attached plan. ("the site")

### **3. The Breach Of Planning Control Alleged**

On 28 August 1986 planning permission 1984/0640/07 was granted for a temporary period of 5 years for the construction of a rail-connected coal preparation and disposal site to serve the nearby Lounge Opencast Coal Site, subject to conditions. One of those conditions was that the Lounge DP should be removed and the site restored within 18 months of the completion of working on the Lounge Opencast Site.

On 16 December 1999, planning permissions 1999/0223/07 and 1999/0225/07 were granted for the deferment of the restoration of the site and the continued limited use of the Lounge Disposal Point rail facility for the shunting of rail wagons associated with the dispatch of coal from the Hicks Lodge Extension Opencast Coal Site until 31 July 2004. Conditions attached to these permissions (which are set out in the schedule to this Notice) require that the restoration of the Lounge Disposal Point shall be completed in accordance with the scheme of restoration approved by the Minerals Planning Authority under the terms of planning permission 1995/0868/07 within 12 months of the cessation of the use of the rail facility.

It appears to the Council that the conditions attached to permissions 1999/0223/07 and 1999/0225/07 set out in the Schedule to this Notice have not been complied with, because the restoration of the site has not been completed in accordance with the specified timescale.

### **4. Reasons For Issuing This Notice**

During 2005 UK Coal submitted a planning application (No. 2005/1147/07) to defer the completion of restoration of the site until 31<sup>st</sup> July 2008. This application was refused by the Council on 17 October 2005. UK Coal submitted an appeal to the Secretary of State against this refusal which was heard at an Inquiry in January 2007.

At that Inquiry UK Coal's submissions effectively sought the delay of restoration until proposals for the development of the site had been formulated and considered. This argument was rejected by the Inspector, who found that further delays in the restoration of Lounge Disposal Point would have a "substantial adverse impact on the character and appearance of the area". The appeal was dismissed on 21<sup>st</sup> February 2007.

The site contains a prominent subsoil storage mound, large areas of concrete hardstanding, a disused rail sidings and a set of water lagoons. The perimeter of the site and the site access points are insufficiently secured against trespassers. Consequently the site is being accessed by unauthorised persons who potentially could cause harm to the restoration.

The Council considers that delaying the restoration of the site until a planning application for other development on the site has been determined would be unacceptable particularly given the Inspector's comments.

It has therefore been determined by the Council that it is expedient to take formal enforcement action to ensure the restoration of the site by requiring the submission of a restoration scheme to be agreed by the Director of Community Services of the Council. The Council is seeking the implementation of a revised restoration scheme because since the preparation of the previously agreed scheme parts of the site have acquired ecological significance.

A revised restoration scheme has been submitted on 28 March 2008 and approved on 25 June 2008. The implementation of this scheme has not yet commenced.

During discussions with UK Coal the possibility arose of the presence of populations of Badger and Great Crested Newt, to which protected species legislation applies. Consequently, specific measures may be required to protect these species and their habitats before the restoration of the appeal site can be completed. In the case of Great Crested Newt, such measures would probably involve the relocation of newts, which requires a licence from Natural England.

The County Council recognises that a protected species licence may take some time to obtain, and that the works required by the protected species licence will have to be carried out at specific times of the year. The spring months are generally considered to be the optimum time for the capture and translocation of newts. The County Council has therefore determined that the time which would otherwise be required to carry out the restoration scheme submitted should be extended in order to allow sufficient time for the necessary protected species licence(s) to be obtained and the capture and translocation of newts to be undertaken in accordance with the requirements of protected species legislation.

## **5. What You Are Required To Do**

- 1.) Complete the restoration of the site in accordance with the restoration scheme submitted on 28 March 2008 as approved by the Council's Director of Community Services by letters dated 25 June 2008 and 1 July 2008, with the exception of the area shown hatched on the attached plan and marked "Area which shall be retained in its present state".

- 2.) Secure the site against trespassers by fencing off the vehicular access onto the A512 Ashby Road between points A and B marked on the attached plan, the north eastern site access between points C and D marked on the attached plan, and the site boundary near Corkscrew Lane between points E and F on the attached plan, using 2m high chain-link fence. The fence between points A and B shall also incorporate a lockable double-leaf gate (2m high) which shall be the only access point to the site.

## 6. Time For Compliance

- 1.) Complete the restoration of the site in accordance with the scheme approved by the Council: **no later than 31 December 2009**
- 2.) Secure the site against trespassers : **one month after the Notice takes effect**

## 7. When This Notice Takes Effect

This notice takes effect on 10th October 2008, unless an appeal is made against it beforehand.

Dated: 10<sup>th</sup> September 2008



County Solicitor,  
Leicestershire County Council, County Hall, Glenfield, Leicester LE3 8RA

## SCHEDULE

**Conditions failure to comply with which has given rise to the alleged breach**

**Planning Permission No. :** 1999/0223/07.  
**Granted:** 16th December 1999  
**Description of Development:** Application under Section 73A of the Town and Country Planning Act 1990 for the retrospective permission for the continued limited use of the former Lounge preparation and disposal point rail facility for the shunting of rail wagons associated with the Hicks Lodge Opencast Coal Site for a temporary period.

### Condition 3:

The site restoration shall be completed in accordance with the scheme of restoration approved by the Minerals Planning Authority under the terms of planning permission reference no. 1995/0868/07 within 12 months of the cessation of the use of the rail facility as required by condition no. 2 above.

**Planning Permission No. :** 1999/0225/07.  
**Granted:** 16<sup>th</sup> December 1999  
**Description of Development:** Application under Section 73 of the Town and Country Planning Act 1990 to undertake the approved restoration scheme without complying with the requirements of planning permission no.

1995/0868/07 and conditions nos. 1 and 2 as set out in the Director of Planning and Transportation's letter dated 23 October 1998.

**Condition 3:**

The site restoration shall be completed in accordance with the scheme of restoration approved by the Minerals Planning Authority under the terms of planning permission reference no. 1995/0868/07 within 12 months of the cessation of the use of the rail facility as required by condition no. 2 above.

## **Annex**

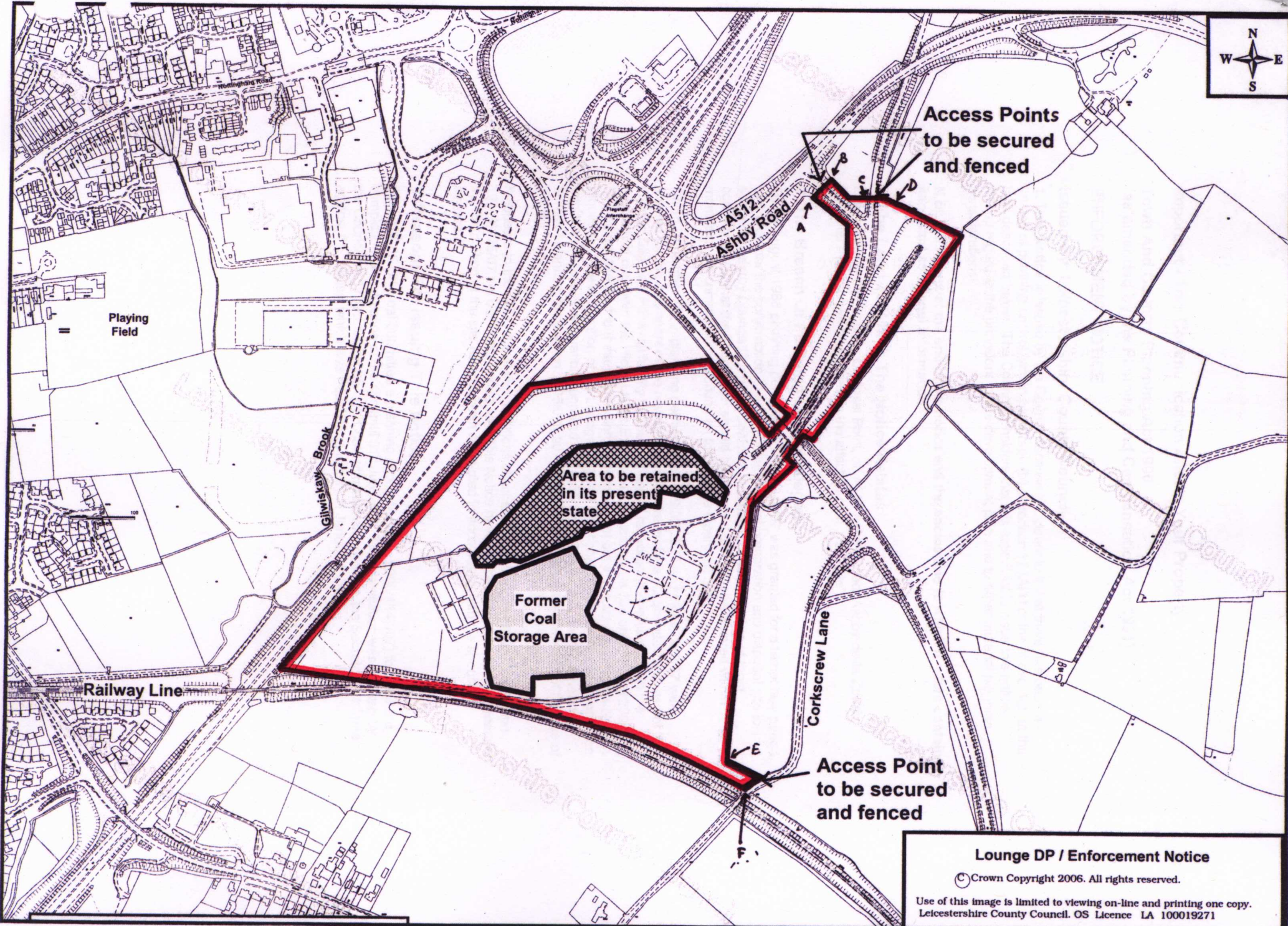
### **Your Right Of Appeal**

You can appeal against this notice, but any appeal must be received, or posted in time to be **received**, by the Secretary of State **before** the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals - A Guide to Procedure" sets out your rights. You may use the enclosed 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 is for your own records.

### **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 periods 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.



Access Points  
to be secured  
and fenced

Area to be retained  
in its present  
state

Former  
Coal  
Storage Area

Access Point  
to be secured  
and fenced

**Lounge DP / Enforcement Notice**  
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