

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 (“The Council”)

To: The Company Secretary, E. Taylor Skip Hire & Recycling Limited, Leicester Road, Hinckley Leicestershire LE10 3DR

1. **This Notice** is issued by the Council because it appears to them 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. 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 contains important additional information.

2. The Land to Which The Notice Relates

Land at Lynden Lea, Leicester Road, Hinckley, Leicestershire LE10 3DR and shown edged red on the attached plan

3. The Matters Which Appear to Constitute the Breach of Planning Control

Without planning permission:

1. The construction of the concrete bays within the area edged red, adjacent to the western boundary, as annotated on Plan EN;
2. The extension of the operational area, adjoining the northern boundary of the Site shown hatched blue on Plan EN;
3. The erection of a building within area hatched blue, as shown on Plan EN;
4. The erection of a building within the Site, as shown in cross hatching in the area edged red on Plan EN, in a location other than that authorised by planning permission 2002/0600/04;
5. Removal of the screening bund, required by Condition 5 of Planning Permission 2002/0600/04, shown hatched green on the Plan EN

All such matters being depicted on the Plan marked with the notation “EN” which is attached to this Notice

4. Reasons for Issuing This Notice

The County Council, as the local Planning Authority, has determined that it is expedient to take formal enforcement action against the above breaches of planning control, which have occurred within the last four years. The unauthorised development, undertaken without the benefit of planning permission, has an undesirable adverse impact on the undeveloped character of the Green Wedge, by way of noise and visual impact.

1. *The construction of the concrete bays within the area edged red on Plan EN, close to the western boundary of the site;*

The whole of the site lies within the Green Wedge designation within the Hinckley and Bosworth Local Plan (Policy NE3). The area occupied by the new bays was formerly a screening bund, which was within the western boundary of the site. The bund formed part of the mitigating measures required to reduce the impact of the development on the Green Wedge in accordance with the approved plan but did not form part of the operational area.

It is considered that by virtue of the height and scale of the bays the development (relative to the previously constructed bund and fence) has a significant adverse impact on the open and undeveloped character of the green wedge. The creation of the bays and the use to which they have been put has also had an adverse impact by virtue of the intrusive noise generated by the dropping and loading of bottles and cans into the bays.

2. *The extension of the operational area into land outside but adjoining the northern boundary of the operational site, shown hatched blue on Plan EN;*

The operational area of the waste management site has been extended and hard surfaced to the north over an area of land formerly occupied by dilapidated corrugated sheds. This extension area is being used primarily for car parking. Whilst the extension of the site into this area was carried out without the benefit of planning permission, the hard surfacing of the area and use of the area for car parking is not considered to have any material adverse effect on the Green Wedge, or to create a significant visual intrusion. Therefore, provided the use of this part of the site is for car parking only, it is not considered expedient to take enforcement action to require the area to be returned to its former condition.

3. *The erection of a building within area hatched blue, as annotated on Plan EN;*

The northerly extension also incorporates a new green coloured building which appears to be used as a garage. The building is partially screened from Leicester Road and the surrounding area by existing vegetation on the north and western boundaries of the site. However, as it is to be used for waste management operations (or ancillary thereto) the development is contrary to the policies of the development plan. As such it has an adverse impact on the open and undeveloped character of the green wedge. Although this impact is of limited nature, there has been no satisfactory demonstration of a need for the building that overrides the damage to the open and undeveloped character of the

green wedge. Therefore, the County Council has determined it expedient to take enforcement action against the building.

4. *The erection of a building within the Site, in a location other than that authorised by planning permission 2002/0600/04.*

The transfer and sorting building, constructed in 2005 and permitted under planning permission 2002/0600/04, is not located in accordance with the submitted plans. The building was located approximately 8m closer to the western boundary and as such resulted in the removal of a portion of the screening bund which was intended to mitigate the impact of the building and the development generally on the Green Wedge.

A planning application was submitted which proposed the retention of the building in the revised location. The development lies within an area designated as a Green Wedge and waste management is not one of the acceptable land uses in such a location, but the County Council accepted that for operational reasons the building needed to be relocated. However, given its position in the green wedge, the County Council considered that the relocation of the building would only be acceptable provided that it remains within the existing boundary; that the rest of the bund remains and that the impact on the Green Wedge was further mitigated by additional screening.

The County Council therefore resolved to permit the application subject to the operator and owner of the Site entering into a legal agreement to provide further mitigation in the form of appropriate screening by way of planting standard trees beyond the site boundary on land also under the control of the owner. The planting would have consisted of a belt (around 10m-wide along the length of the site) of 'standard trees' (a minimum of 2.5-3m in-height), with an annual maintenance plan to be approved and implemented, and requirement for the landscaped belt and bund to be retained, maintained and managed for as long as the waste activities continue in this location. This would then provide the best possible opportunity for trees to establish, provide an effective screen, and enhance the landscape in this Green Wedge location.

A suitable legal agreement meeting the requirements set out in the decision of the Board has not yet been received, despite over 20 months elapsing. In the light of the length of time since the County Council's resolution to grant planning permission (2005/0138/04) for the removal of the bund and other operations on the site, the County Council has reconsidered the previous resolution and has refused planning permission (2005/0138/04). Consequently, no planning permission exists for the Waste Transfer Building in its current location and it has been determined by the County Council that it is expedient to take formal enforcement action to protect the openness and character of the Green Wedge.

5. *Removal of the screening bund, required by Condition 5 of Planning Permission 2002/0600/04, shown hatched green on the Plan EN*

The whole of the site lies within the Green Wedge designation within the Hinckley and Bosworth Local Plan (Policy NE3). The particular area occupied by the extended inert waste sorting area was formerly a screening bund, which was within western boundary of the site. The bund formed part of the mitigating measures required to reduce the impact of the development on the Green Wedge in accordance with the approved plan but did not form part of the operational area. It is considered that by virtue of the height,

scale and elevated noise levels of the waste sorting area and enclosing sleeper walls, the development (relative to the previously constructed bund and fence) has a significant adverse impact on the open and undeveloped character of the green wedge.

Development Plan Policies

Leicestershire, Leicester and Rutland Waste Local Plan 1995-2006

Policy WLP 7: The assessment of all proposals for waste management development will take account of the following factors where appropriate:

- (i) the nature of the material to be managed;
- (ii) the effect on, and relationship to, sensitive nearby land uses (in particular residential properties) by reason of noise, dust, odour, litter, fumes, or any other potential nuisance, including reference to national and local air quality standards;
- (iii) the visual impact on the landscape and the surrounding area;
- (xviii) the provisions of the Development Plan and other planning guidance, being policies and proposals of local planning authorities for the area and any relevant strategies for the area;
- (xxiv) the siting and visual appearance of the buildings, plant, machinery operations;

Policy WLP 8: Planning permission will not be granted in the following instances unless there is an overriding need or the development can be alleviated by appropriate measures:

- (ii) where the development would be incompatible with the provisions of the development plan and any relevant strategies for the area such as the National Forest Strategy;
- (vi) where the development would have an adverse effect on the character of Areas of Particularly Attractive Countryside and other areas of local landscape value;
- (xv) where the cumulative effect of the proposed development would be environmentally adverse;
- (xiv) where the development would adversely affect land or buildings in sport, recreational or tourism use;
- (xvii) where the development including its associated traffic movements, visual impact, noise, dust, odour, litter, and emissions would have an adverse effect on local residential amenity including air quality; and/or other local land uses;

Hinckley and Bosworth Local Plan 2001

Policy NE2: Planning permission will not be granted for development which would be likely to:

- (a) cause harm through pollution of the air and soil; or,
- (b) suffer harm from either existing or potential sources of air or soil pollution.

Policy NE3: The following locations, the precise boundaries of which are shown on the proposals map, are designated as Green Wedges:

(b) the area between Hinckley/Burbage and Barwell/Earl Shilton.

The open character of these areas will be protected and wherever possible improved. Planning permission will only be granted for agriculture, forestry, sport and recreation, transport routes or mineral uses, provided that the proposal:

- (i) does not have an adverse effect on the open and undeveloped character of the Green Wedge;
- (ii) does not undermine the physical separation or character of the settlements separated by Green Wedges; and
- (iii) is in keeping with the scale and character of the surrounding area.

5. What You Are Required To Do

- (i) Demolish the concrete bays and break up any hard standing on the area labelled "Planting Area A" on drawing number 2008/2042629/04A, and remove all resulting materials from the site. Provide and retain a screening bund on the area labelled "Planting Area A" and provide a protective barrier adjacent to the eastern side of this bund. This section of the screening bund and protective barrier shall be constructed to the design and specification identified in the inset titled "Bund Profile" on drawing number 2008/2042629/04A.
- (ii) Plant the screening bund required by (i) above in accordance with the plants listed, to the "plants specification" and "planting schedule", and then maintain in accordance with the "planting maintenance schedule" included on drawing number 2008/2042629/04A.
- (iii) Remove all stored material from within the area labelled "Planting Area B" on the drawing number 2008/2042629/04A. Break up and remove any hard standing within this area, remove sleeper wall between points A & B on the plan labelled EN and relocate in accordance with Plan Ref: ET/HL/WRC/2B forming part of planning permission 2002/0600/04.
- (iv) Provide and retain a screening bund on the area labelled "Planting Area B" and provide a protective barrier adjacent to the eastern side of this bund on drawing number 2008/2042629/04A. This section of the screening bund and protective barrier shall be constructed to the design and specification identified in the inset titled "Bund Profile" on drawing number 2008/2042629/04A.
- (v) Plant the screening bund required by (iv) above in accordance with the plants listed, to the "plants specification" and "planting schedule", and then maintain in accordance with the "planting maintenance schedule" included on drawing number 2008/2042629/04A.
- (vi) Demolish the unauthorised green building, located on the northern extension area, hatched blue on Plan EN, and remove all resulting materials from the site.

- (vii) Use the northern extension area, hatched blue on Plan EN, for car parking only.
- (viii) Clear the area labelled "Planting Area C" on plan no 2008/2042629/04A of all materials, debris and structures, above the level of the surrounding field.
- (ix) Prepare "Planting Area C" in accordance with the "Site Preparation Schedule" for Area C. Then plant the area in accordance with the plants listed, to the "plants specification" and "planting schedule", and then maintain in accordance with the "planting maintenance schedule" included on drawing number 2008/2042629/04A.

6. Time for Compliance

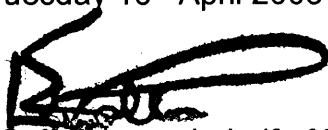
- (i) 3 months after this notice takes effect
- (ii) Within the first planting season (October – February) following the completion of the works required by (i) above
- (iii) 3 months after this notice takes effect
- (iv) 3 months after this notice takes effect
- (v) Within the first planting season (October – February) following the completion of the works required by (iii & iv) above
- (vi) 1 month after this notice takes effect
- (vii) 1 month after this notice takes effect
- (viii) 1 month after this notice takes effect
- (ix) Within the first planting season (October – February) following the completion of the works required by (viii) above

7. When This Notice Takes Effect

This notice takes effect on 19th May 2008, unless an appeal is made against it beforehand.

Dated: Tuesday 16th April 2008

Signed:



County Solicitor, on behalf of Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RA

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 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.

E.M.McCalla LLB.
County Solicitor
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Glenfield
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