

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:
Charnwood Borough Council**

**TO:
Mr & Mrs Gallagher
2 Church Street
Bunny
Nottingham
NG11 6QW**

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 contain important additional information.

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

Land adj Moor Lane, Loughborough, Leicestershire shown edged and hatched red on the attached plan ("the Land").

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

Raising of ground levels within the floodplain.

4. **REASONS FOR ISSUING THIS NOTICE**

1. It appears to the Council that the above breach of planning control has occurred within the last 4 years.
2. The land is outside the Loughborough Limits to Development as identified by Policy ST/2 of the Borough of Charnwood Local Plan. The site is located within the countryside with the limit coinciding with the route of the canal. For land outside these Development Limits policies CT/1 and CT/2 apply which seek to control development outside a relatively narrow set of criteria. In addition, CS11 of the Core Strategy limits development to protect the character of the landscape and countryside. Emerging policy C1 of the submitted Local Plan 2021-2037 also

aims to protect the countryside by seeking to control development. Policies CS11, CT/1, CT/2, ST/2 and C1 are therefore those that are the most important ones for establishing whether the works undertaken are acceptable in principle. There is no identifiable need or justification in terms of an agricultural or horticultural need, to facilitate the diversification of the rural economy or for a recreation or leisure use and therefore the works to significantly raise the land levels are contrary to these policies and the NPPF.

3. There is no evidence before the Council to show that the development has not caused harm to features of biodiversity, protected species or their habitats and that the appropriate mitigation can be provided. The development is therefore contrary to paragraph 180 of the NPPF which indicates that development should contribute to and enhance the local environment by minimising impacts on biodiversity. In addition, the development is contrary to policy CS13 of the Charnwood Local Plan 2011-2028 Core Strategy, emerging policies EV5 and EV6 of the submitted Local Plan 2021-2037 and the Council's Biodiversity Planning Guidance document 2022.
4. The raising of the land levels has increased the ground levels above all the modelled flood heights in the area, therefore parts of the site have been taken out the flood plain. This ground raising has removed floodplain storage from the natural floodplain of the Hermitage Brook and River Soar and will be diverting these flood flows elsewhere. This will have increased flood risk to third party land. The development is therefore contrary to policy CS16 of the Core Strategy, Policy EV29 of the Charnwood Local Plan 2004 and emerging policy CC1 of the submitted Charnwood Local plan 2021-2037. At present Policy CC1 can only be attributed limited weight but as the plan progresses more weight will be able to be attributed to this policy. In addition, the development is in conflict with paragraphs 159 and 167 of the NPPF and the Charnwood Level 1 Flood Risk Assessment 2018.
5. The Council does not consider that planning permission should be given as planning conditions could not overcome these objections.

5. WHAT YOU ARE REQUIRED TO DO

1. Step 1 - Reduce the levels on the Land to levels in accordance with the Topography Plan submitted on the 12 March 2013 planning application P/12/2130/2 within the BWB Flood Risk Assessment dated March 2013 Plan No. NTT2147/Appendix D Revision B. A copy of the Topography Plan is attached at Appendix A of this Notice.
2. Step 2 - Within the first planting season following the Notice taking effect re-plant the areas of trees and grassland that have been lost due to the development works undertaken. The baseline measurement can be taken from the 2018 aerial image as shown in Appendix B of this Notice;
 - A) Plant the woodland area (indicated by a red outline on the 2018 aerial image) with wetland compatible woodland mix including silver birch, goat willow, grey willow and alder on 3m centres using 40-60cm stock.
 - B) Plant the tree belt along the canal bank (western boundary – indicated by a green line on the 2018 aerial image) from the southern edge of the woodland to the southern end of the site and the tree belt along the southern boundary (indicated by a blue line on the 2018 aerial image) with a disease resistant elm variety such as Sapporo Gold (large standard trees on 3m centres).
 - C) Plant the open areas (remainder of the Land) with a wet grassland mix such as Emorsgate EM8 or British Wildflower Seeds “wet meadow seed mix”.
3. Step 3 - If, within a period of 5 years from the date of planting, the tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the Local Authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree.
4. Following the carrying out of each of the Steps 1, 2 and 3 - Remove all resulting debris from the Land and leave the Land in a tidy condition.

6. TIME FOR COMPLIANCE

Step 1, including to remove all resulting debris from the Land and leave the Land in a tidy condition - within 4 Months from the date the Notice takes effect.

Step 2, including to remove all resulting debris from the Land and leave the Land in a tidy condition - within the first planting season following the Notice taking effect.

Step 3, including to remove all resulting debris from the Land and leave the Land in a tidy condition - within a period of 5 years from the date the planting required by Step 2 is completed.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **Friday 26th May 2023** unless an appeal is made against it beforehand.

Signed



On behalf of Charnwood Borough Council

Dated:

18 April 2023

ANNEX

YOUR RIGHT TO APPEAL

You can appeal against this Notice in writing to the Secretary of State, but any appeal must be received, or posted in time to be **received** by the Secretary of State **before** the date this notice takes effect as specified in paragraph 7 of the notice. If you decide to appeal, you should follow the guidance provided in the attached note from the Planning Inspectorate.

FEE PAYABLE FOR THE DEEMED APPLICATION

If your ground of appeal includes ground (a) that planning permission should be granted, you must include with your appeal a fee, which is double that payable for a normal planning application. The total fee payable is **£8,236.80 (site area 1.79ha)** and should be paid to Charnwood Borough Council.

The fee can be sent with your appeal forms to the Council.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date the notice takes effect which is specified in paragraph 7 of the notice and you must then ensure that the notice is complied with. Failure to comply with an enforcement notice that has taken effect, is a criminal offence and can result in legal proceedings and/or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS NOTICE:

Mr Gallagher
2 Church Street
Bunny
Nottingham
NG11 6QW

Mrs Gallagher
2 Church Street
Bunny
Nottingham
NG11 6QW

(continued on next page)

Nina Nicola Cole (Secretary)
Sowden Group Limited
Blaby Hall
1 Church Street
Blaby
Leicester
LE8 4FA

Linda Gallagher (Secretary)
H & L Gallagher Properties Limited
The Croft Barn
Main Street
Syerston
Newark
NG23 5NE

Chris May (Agent)
Howes Percival
3 The Osiers Business Centre
Leicester
LE19 1DX

Ricky Hatton (Director)
Windmill Road Developments Limited
Blaby Hall
Church Street
Blaby
Leicestershire
LE8 4FA

Roy David Coley (Director)
Windmill Road Developments Limited
Blaby Hall,
Church Street
Blaby
Leicestershire
LE8 4FA

Martyn Kevin Snutch (Director)
M Snutch Builders and Contractors Limited
Unit 19 Charnwood Edge Business Park
Syston Road
Cossington
LE7 4UZ

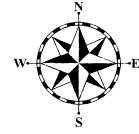
Copy to be placed on the Land.



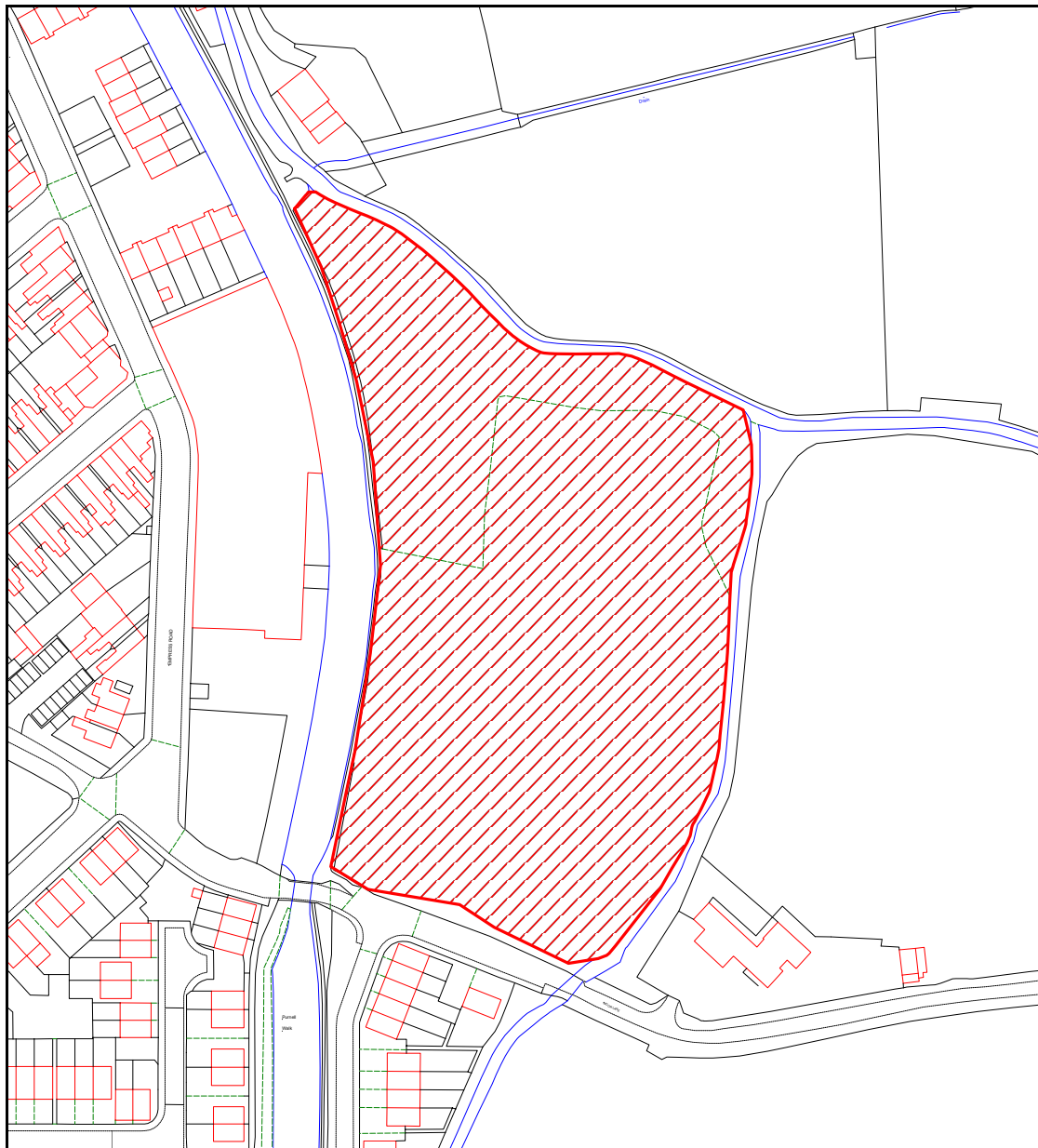
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Reference No: E/18/0476
Location: Land adj Moor Lane, Loughborough, Leicestershire
Scale: 1:1250



APPENDIX A – the Topography Plan - Plan No. NTT2147/Appendix D
Revision B referred to in paragraph 1 of Section 5 (What you are
Required to Do)

APPENDIX B – the 2018 aerial images referred to in paragraph 2 of Section 5 (What you are Required to Do)

