

EASTLEIGH BOROUGH COUNCIL

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING & COMPENSATION ACT 1991) – SECTION 174

TOWN AND COUNTRY PLANNING (ENFORCEMENT) (WRITTEN REPRESENTATIONS PROCEDURE) (ENGLAND) REGULATIONS 2002 (STATUTORY INSTRUMENT 2002/2683)

STATEMENT OF CASE

Enforcement Notice appeal against Enforcement Notice issued by Eastleigh Borough Council

Appeal by Mr Anwar Hmimssa – 7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY

Site – 7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY

Planning Inspectorate reference: *APP/W1715/C/22/3311550*

Local Authority reference: *ENF/2021/434*

Eastleigh Borough Council
Eastleigh House
Upper Market Street
Eastleigh
Hampshire
SO50 9YN

16 January 2023

INTRODUCTION

1. This statement is in respect of an appeal made by Mr Anwar Hmimssa, owner of 7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY (“the Appellant”) against the decision of Eastleigh Borough Council (“the Council”) to issue an Enforcement Notice. On 20th October 2022 an Enforcement Notice was issued and served on the Appellant for a breach of planning control; specifically, without planning permission, the erection of a fence in excess of 1 metre in height above ground level and adjacent to the highway.

REASONS FOR ISSUING THE ENFORCEMENT NOTICE

2. The reasons for issuing the Enforcement Notice are as follows:
 - (i) The breach of planning control has occurred within the last four years.
 - (ii) The fence does not benefit from planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class A as it exceeds 1 metre in height adjacent to the highway. The fencing is considered to be stark and visually intrusive and is therefore contrary to the Eastleigh Borough Local Plan 2016 – 2036.
 - (iii) The fence causes issues relating to highway safety due to reduced visibility of vehicles leaving the property for pedestrians using the footpath and other road users due to the bend in the road.
 - (iv) The fence is considered to have a detrimental impact on the street scene and character of the area and is therefore contrary to the Eastleigh Borough Council Local Plan 2016 – 2036.

LOCATION AND DESCRIPTION OF APPEAL SITE AND SURROUNDING AREA

3. The area, in general, is characterised by semi-detached properties, set back from the road behind low boundary wooden fencing, brick walling or hedging with open green frontages which provides a sense of spaciousness and gives an attractive appearance within the street scene. There are examples of properties on Lynton Road enclosing rear gardens which face onto Watts Road with 2-metre-high fencing, however these are bordered with a grass verge between the fence line and the highway which helps to retain the open feel and gives vehicles a clear line of sight when exiting. The fencing, by reason of its extent, length, height and siting so close to the footpath; fails to respond positively to local context and would diminish those qualities that contribute positively to the existing character and therefore cause harm. The fence, by reason of its extent, length, height and sitting so close to the footpath; fails to respond positively to local context and would diminish those qualities that contribute positively to the existing character and therefore cause harm. The fence is also stark in appearance compared to

the mix of softer hedging and low walls and fencing typically found in the area. The site of the alleged breach is located on a plot on a bend in the road in a prominent location where the identified harm to the character and appearance of the locality, and the risk to highway safety is also emphasized.

RELEVANT PLANNING POLICY

4. The relevant planning policy is Saved Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) which states:

1. All new development should (as relevant):

a. not have an unacceptable impact on, and where possible should enhance:

i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;

ii. biodiversity (avoiding significant adverse impacts); and

iii. the significance of heritage assets;

b. make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;

c. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;

d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);

e. include a landscape scheme covering the design and layout of external space;

f. protect and enhance public rights of way and National Trails and provide fully connected green infrastructure that interlaces the development and connects into the wider network;

g. provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;

- h. incorporate provision for people with disabilities and create accessible communities that cater for all;*
- i. incorporate design measures to inhibit criminal and anti-social behaviour;*
- j. incorporate provision for on-site waste management; and*
- k. include provision for public art associated with new large-scale development in accordance with the Council's adopted Public Art Strategy.*

GROUND OF APPEAL

5. The appellant has appealed against the Enforcement Notice on the following ground of appeal:

Ground (b) – That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

Ground (d) – That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

Appellant's comments;

(a) The new fences that were erected were replaced like for like by a garden landscaper. The only difference being we used concrete posts to extend the life expectancy as the wooden ones previously used were rotten. I bought the property in May 2018 and the existing fences were already in situ and had been for a long time previous to my ownership. The company that carried out the work of replacing the fences have sent me a letter confirming that they only replaced like for like and no other alterations/additions were made.

(b) We do not feel that planning permission is required as the fences were replaced like for like and we have only upgraded them for a better quality due to deterioration of the existing fences.

Relevant planning policies and guidance

6. Under Section 12 of the National Planning Policy Framework, in particular paragraph 130, subparagraph c) which states developments "*are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)*"; and subparagraph d) which states developments "*establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit*".

7. Under the section External Space (Boundary Structure) of the Quality Places SPD, it is stated that *“For existing properties, the boundary treatment should be reflective of the general character of an area”*.

Relevant history

8. Following a planning breach reported on 11th October 2021, an initial desktop investigation on 11th October 2021 which included retrieving a satellite view of the property from 2020 which appears to indicate no fencing in place at that time contrary to the statement from the appellant, and which is confirmed by Google Street View imagery from September 2020 showing no fencing present, and a follow up site inspection and enforcement investigation conducted on 14th October 2021 (see appendix 1), a letter was issued to the appellant on 18th October 2021 requesting the fence be reduced to 1 metre in height or a retrospective planning application be submitted (see appendix 2).
9. An appeal was submitted by the alleged offender to the Planning Inspectorate on 20th October 2021 despite no formal notice having been issued, only the invitation to submit a retrospective planning application (see appendix 3). The Appeal was rejected by the Planning Inspectorate as invalid on 22nd October 2021 due to no formal notice having been issued (see appendix 4).
10. An email was sent to the appellant on 10th November 2021 repeating the request for the fence be reduced to 1 metre in height or a retrospective planning application be submitted (see appendix 5), and a further final letter was sent to the appellant on 4th January 2022 inviting submission of a retrospective planning application or reduction of the height of the fence to 1 metre (see appendix 6).
11. A site visit was conducted on 28th January 2022 to confirm if there had been any changes made to the development and to gather up to date evidence. During this site visit, a face-to-face conversation was held with the female owner of the property to advise once again of the requirement to either submit retrospective planning application or reduce the height of the fencing (see appendix 7). Further to this visit, a telephone conversation was held with the appellant on 31st January 2022 where he was once more verbally advised of the requirement to either submit retrospective planning application or reduce the height of the fencing, which he verbally confirmed he refused to do. Therefore, it was confirmed verbally to him that an Enforcement Notice would be served, which he verbally confirmed he would appeal when received (see appendix 8).
12. A site visit was conducted on 14th October 2022 to confirm if there had been any changes made to the development and to gather up to date evidence (see appendix 9).

13. On 20th October 2022 an enforcement notice was served on Mr and Mrs Hmimssa requesting the following (see appendix 10):
- a) Remove from the land the unauthorised fence and fence posts as marked in black on the attached plan OR
 - b) Reduce the unauthorised fencing and fence posts so that it does not exceed 1 metre from ground level as marked in black on the attached plan.
 - c) Please remove any waste items that result from the works to an authorised place of disposal.
14. An appeal was received on 7th December 2022 (see appendix 11).

Whether planning permission should be granted

15. Planning permission has not been sought for this boundary treatment.

SUMMARY AND CONCLUSION

16. The Council considers that there has been a clear breach of planning control as the development does not fall within permitted development nor has planning permission been sought for the retention of the fence. Additionally, it has been demonstrated via satellite imagery from 2020 that no boundary treatment was in place at that time contrary to the information provided by the appellant, therefore confirming that the breach occurred within the last 4 years. Imagery from Google Street View also confirms that no boundary treatment was in place in September 2020. Additionally, no evidence was provided to the LPA prior to appeal during the course of the Enforcement investigation to show that the fencing had been in place for more than 4 years, and the statement provided by the appellant from his fencing contractor has confirmed that the current boundary treatment was erected in April 2021 therefore evidencing it as a new development.
17. The appeal has not demonstrated that the development accords with saved policies of the Eastleigh Borough Local Plan (2016-2036) or the NPPF.
18. The fence is not considered to be Permitted Development under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as it exceeds 1 metre in height adjacent to a highway.
19. The fence is located adjacent to the highway in a residential area. The fencing, due to its length, siting, height and sitting so close to the footpath; is considered to have an adverse impact within the street scene, to detract from the character and appearance of the locality, and to cause issues relating to highway safety due to reduced visibility of vehicles leaving the property for pedestrians using the

footpath and other road users due to the bend in the road at that point. The fencing is therefore contrary to policy DM1 of the Eastleigh Borough Council Local Plan (2016 – 2036), the guidance contained within the Quality Places SPD and Section 12 of the NPPF. The Inspector is respectfully requested to dismiss the appeal and uphold the Enforcement Notice.

APPENDICES

Appendix 1: ENF/2021/434 report on 11th October 2021 reporting an unauthorised fencing, initial desktop investigation conducted and satellite image of property from 2020 indicating no boundary treatment in place saved to the enforcement records, and further site inspection conducted on 14th October 2021.

Appendix 2: ENF/2021/434 162 letter sent to appellant on 18th October 2021 requesting the fence is reduced in height to 1 metre or a retrospective application be submitted.

Appendix 3: ENF/2021/434 An appeal was submitted by the alleged offender to the Planning Inspectorate despite no formal notice having been issued, only the invitation to submit a retrospective planning application.

Appendix 4: ENF/2021/434 Appeal rejected by Planning Inspectorate as invalid due to no formal notice having been issued.

Appendix 5: ENF/2021/434 Confirmation of requirement for submission of retrospective planning application sent to alleged offender.

Appendix 6: ENF/2021/434 A retrospective planning application was invited again to retain the 2-metre-high fencing.

Appendix 7: ENF/2021/434 Fence was witnessed to still be at 2 metre height. Female resident/owner of property spoken to at the front door and advised fully of requirement to either submit retrospective planning application or reduce the height of the fencing.

Appendix 8: ENF/2021/434 Telephone conversation with male resident/owner of property to fully discuss the requirement to either submit retrospective planning application or reduce the height of the fencing. He confirmed verbally that he does not intend to do either, and will instead appeal the formal notice when received.

Appendix 9: ENF/2021/434 Site visit conducted to confirm fencing still in place.

Appendix 10: ENF/2021/434 planning enforcement notice is served on 20th October 2022.

Appendix 11: ENF/2021/434 planning enforcement appeal received with start date of 7th December 2022 under reference APP/W1715/C/22/3311550.

Appendix 1: ENF/2021/434 report on 11th October 2021 reporting an unauthorised fencing, initial desktop investigation conducted and satellite image of property from 2020 indicating no boundary treatment in place saved to the enforcement records, and further site inspection conducted on 14th October 2021.



Appendix 2: ENF/2021/434 162 letter sent to appellant on 18th October 2021 requesting the fence is reduced in height to 1 metre or a retrospective application be submitted.



MR ANWAR HMIMSSA
7 LYNTON ROAD
HEDGE END
SOUTHAMPTON
SO30 4EY

Ref	ENF/2021/434
Please ask for	Jamie Edwards
Direct dial	023 8068 8138
Working hours	
Email	jamie.edwards@eastleigh.gov.uk

Monday 18 October 2021

Dear Anwar Hmimssa

RE: Unauthorised boundary treatment in excess of 1 metre adjacent to a highway

SITE: 7 LYNTON ROAD, HEDGE END, SOUTHAMPTON, SO30 4EY

I am writing to advise you that the development works you have carried out require planning permission. You are therefore invited to submit a retrospective planning application.

A complete application should be received by me within 21 days from the date of this letter. You can submit your application electronically or download application forms via the Planning Portal at planningportal.co.uk and for further guidance on what information is required to ensure your application is valid can be found at [Validation Criteria Guidance](#).

The application must include an original and one copy of;

- Application form
- Location plan scale 1:1250 with the site outlined in red
- Block plan scale 1:500 to clearly show the position of the development
- Existing and proposed floor plans scale 1:100/1:50 or dimensioned (metric measurements)
- Existing and proposed elevations scale 1:100/1:50 or dimensioned (metric measurements)
- Relevant fee (please refer to our website)

Please contact me on the above number or email if you require any assistance.

However, it should be appreciated that an invitation to submit a planning application cannot in anyway prejudice either the subsequent recommendation or the ultimate decision of the Council as each planning application is considered on its merits.

Yours sincerely,

Jamie Edwards

Local Response Officer

Appendix 3: ENF/2021/434 An appeal was submitted by the alleged offender to the Planning Inspectorate despite no formal notice having been issued, only the invitation to submit a retrospective planning application.

Rainger, Angela

From: noreply@planninginspectorate.gov.uk
Sent: 20 October 2021 10:03
To: EBC Planning Support
Subject: Notification of Appeal APP/W1715/C/21/3285213 7 Lynton Road
Attachments: 01 APPEAL FORM - 715131.pdf



Appeals Casework Portal

A Enforcement Notice appeal has been received by the Planning Inspectorate. Details of the appeal are shown below:

Appeal Details

Appeal Reference: APP/W1715/C/21/3285213
Appeal Receipt Date/Time: 20/10/2021 10:02
Appeal By: Anwar Hmimssa
Site Address: 7 Lynton Road SO30 4EY
Local Planning Authority: Eastleigh Borough Council
Attached is a copy of the appeal form.

Important Information: An email has been sent to the appellant/agent advising them that they must send a copy of the completed appeal form and any relevant supporting documents not previously sent to you. If you have not received them within a few working days, you should contact the appellant to request them.

****Please do not reply to this message. - It is an automatically generated response from the mail delivery system.****

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DPC:76616c646f72



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The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/W1715/C/21/3285213

A. APPELLANT DETAILS

Name Mr Anwar Hmimssa

Address
7 Lynton Road
Hedge End
SOUTHAMPTON
SO30 4EY

Phone number

Email

Preferred contact method

Email ☒ Post ☐

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes ☐ No ☒

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☐ No ☒

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority Eastleigh Borough Council

LPA reference number (if applicable) ENF/2021/434

Date of issue of enforcement notice 19/10/2021

Effective date of enforcement notice 16/11/2021

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes ☒ No ☐

Address

7 Lynton Road
Hedge End
SOUTHAMPTON
SO30 4EY

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

☐ No



What is your/the appellant's interest in the land/building?

Owner



Tenant



Mortgagee



None of the above



E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

☐ No



(a) That planning permission should be granted for what is alleged in the notice.



The facts are set out in

☒ the box below

The fences in question were originally in place when we moved in in 2018 and for many years before that so all we have done is changed them like for like. The builder confirmed that planning permission was not required as we were just replacing the existing ones with new ones of the same height. We took them down as they were deteriorating and we needed to gain access to the front of the property as we were having building work carried out at the rear and had lots of building supplies being delivered. Now the building work has been finished we have put the fences back up as they were, to offer us some security and to protect our possessions as we have had issues with a neighbour damaging one of our cars whilst the fences were down. The car is now parked back on the driveway behind the fence so it is not easily accessible and no further issues have arisen. The fence also offers us some privacy as our house is directly on the footpath.

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.



(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



(e) The notice was not properly served on everyone with an interest in the land.



(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.



(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.



F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations



- (a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes ☒ No ☐
- (b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes ☐ No ☒
2. Hearing ☐
3. Inquiry ☐

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes ☐ No ☒
2. Are there any planning reasons why a fee should not be paid for this appeal? Yes ☒ No ☐
- ☒ the box below

We feel that planning permission was not needed as the fences were originally there when we bought the property and all we have done is replaced them like for like.

H. OTHER APPEALS

- Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes ☐ No ☒

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:
☒ see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr Anwar Hmimssa

Date

20/10/2021 10:02:36

Name

Mr Anwar Hmimssa

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

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K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: WIN_20211020_09_59_53_Pro.jpg
File name: WIN_20211020_10_00_58_Pro.jpg

Completed by MR ANWAR HMIMSSA

Date 20/10/2021 10:02:36

Appendix 4: ENF/2021/434 Appeal rejected by Planning Inspectorate as invalid due to no formal notice having been issued.

Rainger, Angela

From: ECAT <ECAT@planninginspectorate.gov.uk>
Sent: 22 October 2021 10:01
To: [REDACTED]
Cc: EBC Planning Support
Subject: FW: Planning Inspectorate APP/W1715/C/21/3285213: 7 Lynton Road, SO30 4EY

Dear Mr Hmimssa

I refer to the completed appeal form received from you 20 October 2021.

Please see the e-mail below received from the Council advising that they have not served an Enforcement Notice relating to 7 Lynton Road.

As the Council has not served an Enforcement Notice we are turning your appeal away as there is no Enforcement Notice to appeal against.

If the Council should decide to serve an Enforcement Notice in the future a fresh appeal will be necessary and any appeal must be received at least one day before the date the Enforcement Notice takes effect.

I am copying our e-mail to the Council for their information.

Kind Regards.

Madeline Fox

Madeline Fox
Enforcement Appeals Validation Officer

Enforcement and LDC Casework
The Planning Inspectorate
3B Eagle, Temple Quay House, 2 The Square, Bristol, BS1 6PN
Telephone 0303 444 5277
ECAT Helpline Number 0303 444 5570

e: ecat@planninginspectorate.gov.uk

From: Douglas, Sarah <Sarah.Douglas@eastleigh.gov.uk>
Sent: 22 October 2021 09:34
To: ECAT <ECAT@planninginspectorate.gov.uk>
Cc: Wiseman, Phil <Phil.Wiseman@eastleigh.gov.uk>; Rainger, Angela <Angela.Rainger@eastleigh.gov.uk>
Subject: RE: Planning Inspectorate APP/W1715/C/21/3285213: 7 Lynton Road, SO30 4EY

FAO Enforcement Appeals Officer,

In regard to the above appeal which has been submitted to yourselves, we have checked our records and advise that no Enforcement Notice has been served on Mr Hmimssa of 7 Lynton Road, and therefore this appeal is invalid.

With regards

Sarah Douglas

SarahDouglas

Case Management Officer

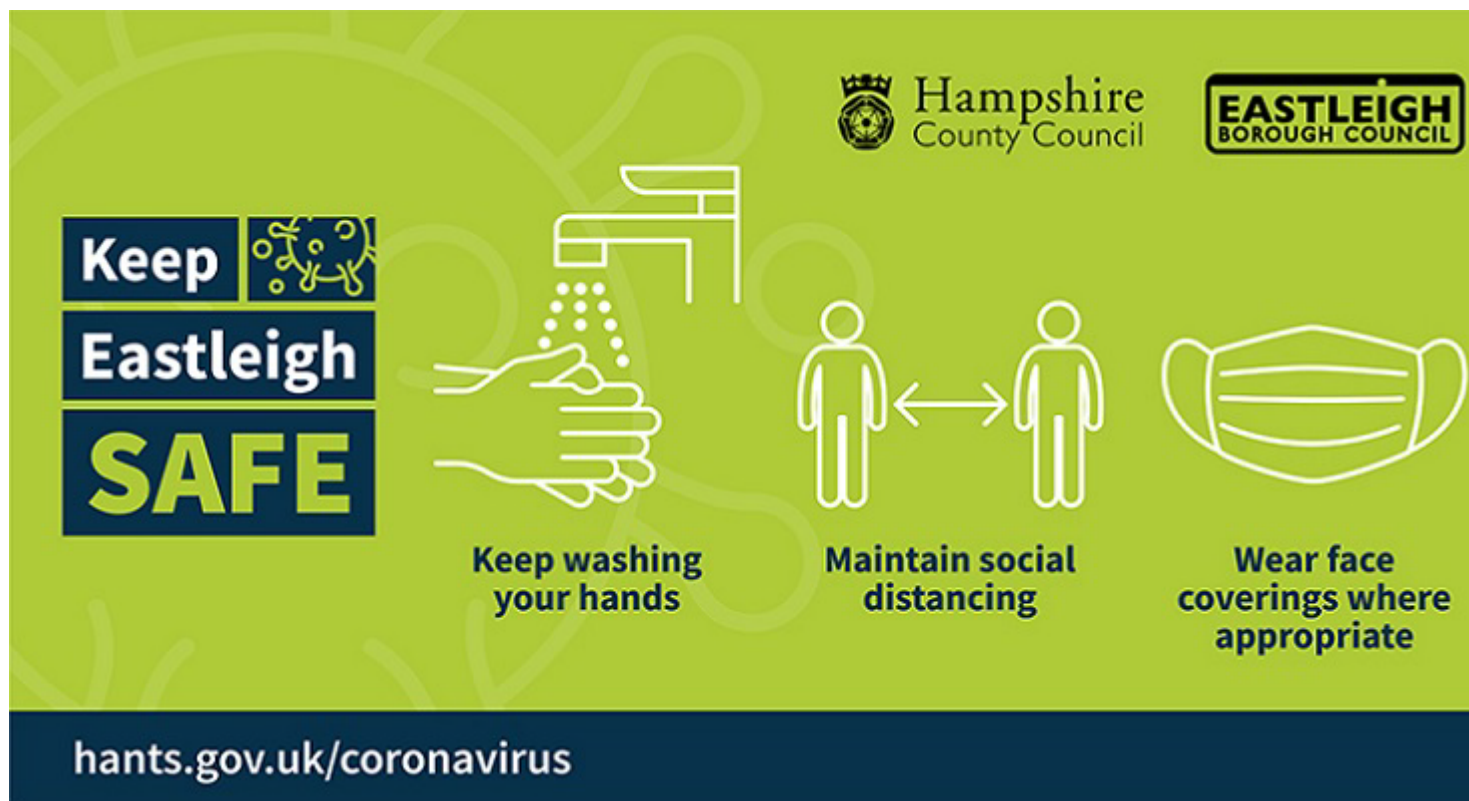
Service Delivery - Case Management

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023 80688313



Eastleigh Borough Council | Eastleigh House | Upper Market Street | Eastleigh | SO50 9YN



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Eastleigh Borough Council

From: noreply@planninginspectorate.gov.uk <noreply@planninginspectorate.gov.uk>

Sent: 20 October 2021 11:27

To: EBC Planning Support <ebcplanningsupport@eastleigh.gov.uk>

Subject: Planning Inspectorate APP/W1715/C/21/3285213: 7 Lynton Road, SO30 4EY

The Planning Inspectorate (England)
Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

The Planning Inspectorate (Wales)
Crown Buildings, Cathays Park, Cardiff, CF10 3NQ

<http://www.planningportal.gov.uk/planninginspectorate>

Twitter: [@PINSgov](https://twitter.com/PINSgov)

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Appendix 5: ENF/2021/434 Confirmation of requirement for submission of retrospective planning application sent to alleged offender.

Rainger, Angela

From: Edwards, Jamie
Sent: 10 November 2021 15:16
To: [REDACTED]
Subject: RE: Confirmation of Appeal APP/W1715/C/21/3285213

Dear Mr Hmimssa,

Apologies in the delay to responding to your below email.

I can confirm that your email along with the attached form was forwarded to the Senior Planning Officer. Along with your email I explained further the ongoing issues you were having with your neighbour, the reason you have erected this fence at the front of your property as well as your query over other properties doing similar works on Ratcliffe Road. After speaking to the Senior Planning Enforcement Officer, I can confirm that the decision remains the same and that a planning application would still need to be submitted on order to keep the current height of the front fence. In regards to the other properties on Ratcliffe Road, I received confirmation that these cases were reported and investigated with by an Enforcement Officer.

As discussed on the phone previously, I can confirm that the deadline in order for a valid application to be received by this council will be 28 days from the date of this email.

Please do not hesitate to contact me if you have any further questions.

Kind Regards
Jamie

Jamie Edwards

Local Response Officer

Service Delivery - Local Area Services

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A direct phone call may not be answered.**

023 8068 8138



Eastleigh Borough Council | Eastleigh House | Upper Market Street | Eastleigh | SO50 9YN

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Eastleigh Borough Council

From: [REDACTED]
Sent: 20 October 2021 10:06
To: Edwards, Jamie <Jamie.Edwards@eastleigh.gov.uk>
Subject: Fwd: Confirmation of Appeal APP/W1715/C/21/3285213

Sent from my iPhone

Begin forwarded message:

From: noreply@planninginspectorate.gov.uk

Date: 20 October 2021 at 10:02:39 BST

To: [REDACTED]

Subject: Confirmation of Appeal APP/W1715/C/21/3285213



Appeals Casework Portal

Your Enforcement Notice appeal has been received and a reference number assigned:

Appeal Details

Appeal Reference: APP/W1715/C/21/3285213

Appeal Receipt Date/Time: 20/10/2021 10:02

Appeal By: Anwar Hmimssa

Site Address: 7 Lynton Road SO30 4EY

Local Planning Authority: Eastleigh Borough Council

Attached is a copy of your appeal form.

Important Information: An email has been sent to the Local Planning Authority (LPA) advising them that an appeal has been made. You **must** now send them a completed copy of the appeal form and supporting documents (including your full grounds of appeal). You can do this via email by:

- opening and saving a copy of your appeal form;
- locating your [Local Planning Authority's email address](#);
- attaching the saved appeal form plus all supporting documents.

Please quote your appeal reference number(s) on any future correspondence to us to avoid any delays. If forwarding the supporting documents by email please send to appeals@planninginspectorate.gov.uk. If posting, please enclose the section of the form that lists the supporting documents and send to Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Bristol, BS1 6PN.

The Planning Inspectorate does not require paper copies of anything submitted electronically, we only require copies of documents marked as 'To follow' by post. However, please note that whilst we aspire to electronic working, it may at times be necessary for us to request hard copies of certain documents to ensure that they are formatted/printed in a consistent form for reference by all parties, particularly in relation to appeals proceeding by way of an oral event.

We will check the appeal to ensure it is valid. If we find your appeal is invalid, we have right to turn it away and we will write to you. If there is information missing we will write to request it. If your appeal is valid we will let you know how it will proceed. More information about the appeals process can be found on our [website](#).

What happens next

If your appeal is against an Enforcement Notice and a fee is due please pay this now to your LPA (the amount can be found on the Notice) and let us know it's been paid (including who has paid if there are multiple appellants) by emailing ECAT@planninginspectorate.gov.uk quoting the above reference number.

We will check your appeal shortly after it has been submitted to ensure it is valid and all the necessary documents have been submitted. Once we have checked your appeal we will contact you with information on the next steps.

You may wish to note the current average time for handling appeals is available on [GOV.UK](https://gov.uk).

If you have any queries, please contact our Customer Service Team via enquiries@planninginspectorate.gov.uk

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[Please take a moment to review the Planning Inspectorate's Privacy Notice which can be accessed by clicking this link.](#)



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The statements expressed in this e-mail are personal and do not necessarily reflect the opinions or policies of the Inspectorate.

DPC:76616c646f72



Please consider the environment before printing this email

Appendix 6: ENF/2021/434 A retrospective planning application was invited again to retain the 2-metre-high fencing.



MR ANWAR HMIMSSA
7 LYNTON ROAD
HEDGE END
SOUTHAMPTON
SO30 4EY

Ref	ENF/2021/434
Please ask for	John Saunders
Direct dial	023 8068 8038
Working hours	
Email	John.saunders@eastleigh.gov.uk

Tuesday 4th January 2022

Dear Anwar Hmimssa

RE: Unauthorised boundary treatment in excess of 1 metre adjacent to a highway
SITE: 7 LYNTON ROAD, HEDGE END, SOUTHAMPTON, SO30 4EY

I am writing to advise you that the development works you have carried out require planning permission. You are therefore invited to submit a retrospective planning application or reduce the height of the fence to 1 metre.

A complete application should be received by me within 28 days from the date of this letter. You can submit your application electronically or download application forms via the Planning Portal at planningportal.co.uk and for further guidance on what information is required to ensure your application is valid can be found at [Validation Criteria Guidance](#).

The application must include an original and one copy of;

- Application form
- Location plan scale 1:1250 with the site outlined in red
- Block plan scale 1:500 to clearly show the position of the development
- Existing and proposed floor plans scale 1:100/1:50 or dimensioned (metric measurements)
- Existing and proposed elevations scale 1:100/1:50 or dimensioned (metric measurements)
- Relevant fee (please refer to our website)

However, it should be appreciated that an invitation to submit a planning application cannot in anyway prejudice either the subsequent recommendation or the ultimate decision of the Council as each planning application is considered on its merits.

Please also note that an appeal can only be submitted once a planning enforcement notice has been served. Please e-mail me if you have any further questions.

Yours sincerely,

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN

T: 023 8068 8000 E: direct@eastleigh.gov.uk W: www.eastleigh.gov.uk

John Saunders
Planning Enforcement Officer

Appendix 7: ENF/2021/434 Fence was witnessed to still be at 2 metre height. Female resident/owner of property spoken to at the front door and advised fully of requirement to either submit retrospective planning application or reduce the height of the fencing.



Appendix 8: ENF/2021/434 Telephone conversation with male resident/owner of property to fully discuss the requirement to either submit retrospective planning application or reduce the height of the fencing. He confirmed verbally that he does not intend to do either, and will instead appeal the formal notice when received.

Appendix 9: ENF/2021/434 Site visit conducted to confirm fencing still in place.



Appendix 10: ENF/2021/434 planning enforcement notice is served on 20th October 2022.

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: Eastleigh Borough Council

1. THIS NOTICE ("Notice") is issued by Eastleigh Borough Council ("the Council") because it appears to the Council that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, on 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. The Annex to this Notice and the enclosures to which it refers contain important additional information.

2. THE LAND AFFECTED

7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY as shown edged in red on the plan attached to this Notice ("the Plan").

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

Without planning permission, the erection of a fence in excess of 1 metre in height above ground level and adjacent to the highway. The approximate position of the fence is shown black on the attached plan.

4. REASONS FOR ISSUING THIS NOTICE

The above breach of planning control has occurred within the last 4 years.

The fence does not benefit from planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class A as it exceeds 1 metre in height adjacent to the highway. The fencing is considered to be stark and visually intrusive and is therefore contrary to the Eastleigh Borough Local Plan 2016 – 2036.

The fence causes issues relating to highway safety due to reduced visibility of vehicles leaving the property for pedestrians using the footpath and other road users due to the bend in the road.

The fence is considered to have a detrimental impact on the street scene and character of the area is therefore contrary to the Eastleigh Borough Local Plan 2016 – 2036.

The above breach is in contravention of the following policies:

DM1 of the Submitted Eastleigh Borough Local Plan (2011 – 2036).

Supplementary Planning Document Quality Places Adopted November 2011.

Part 12 (Achieving well-designed places) of the National Planning Policy Framework.

5. WHAT YOU ARE REQUIRED TO DO

5.1 Remove from the land the unauthorised fence and fence posts as marked in black on the attached plan OR

5.2 Reduce the unauthorised fencing and fence posts so that it does not exceed 1 metre from ground level as marked in black on the attached plan

5.3 Please remove any waste items that result from the works to an authorised place of disposal.

6. TIME FOR COMPLIANCE

3 months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 24 November 2022 unless an appeal is made against it beforehand.

Dated: 20 October 2022

Signed:



On behalf of: Legal Services Manager, Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh, Hampshire, SO50 9YN

Nominated Officer: Ian Myers

Telephone Number: 07471 889 558

ANNEX

Eastleigh Borough Council has issued an enforcement notice relating to land at **7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY** and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of the Annex.

YOUR RIGHT OF APPEAL

You can appeal against this enforcement notice, but any appeal must be **received** by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be delivered to the Planning Inspectorate) **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

GROUND OF APPEAL

The grounds of appeal are set out in section 174 of the TCPA 1990. You may appeal on one or more of the following grounds 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 a)
- Those matters have not occurred. (ground b)
- Those matters (if they have occurred) do not constitute a breach of planning control. (ground c)
- 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 d)
- Copies of the Enforcement Notice were not served as required by section 172 of the TCPA 1990. (ground e)
- 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 such breach (ground f)

- Any period specified in the notice in accordance with section 173(9) of the TCPA 1990 falls short of what should reasonably be allowed (ground g).

Not all of these grounds may be relevant to you.

PLANNING APPLICATION FEE

If you wish to appeal on grounds a of section 174(2) of the TCPA 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of **£412**. You should pay the fee to Eastleigh Borough Council. If the fee is not paid then that ground of appeal will not be valid.

STATEMENT ON GROUNDS OF APPEAL

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

STATUTORY PROVISIONS

A copy of sections 171A, 171B and 172 to 177 of the TCPA 1990 is attached for your information.

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 you may be held responsible, are taken within the period 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.

RECIPIENTS OF THE NOTICE

Anwar Hmimssa, 7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY

Samantha J Hmimssa, 7 Lynton Road, Hedge End, Eastleigh, Hampshire, SO30 4EY

National Westminster Bank PLC (Company registration number. 929027) of Mortgage Centre, P.O Box 123, Greenock PA15 1EF

National Westminster Bank PLC (Company registry number. 929027) of 250 Bishopsgate, London, England, EC2M 4AA

Jan Cargill, Secretary of National Westminster Bank PLC (Company registration number 929027) of Mortgage Centre, P.O Box 123, Greenock, PA15 1EF

Jan Cargill, Secretary of National Westminster Bank PLC (Company registration number 929027) of 250 Bishopsgate, London, EC2M 4AA

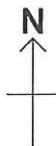
Jan Cargill, Secretary of National Westminster Bank PLC (Company registration number 929027) of registered office 250 Bishopsgate, London, EC2M 4AA and correspondence address of 36 St Andrew Square, Edinburgh, Scotland, EH2 2YB

ENF/2021/434 - 7 Lynton Road



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EASTLEIGH
BOROUGH COUNCIL



Department:	Enforcement
Date: 29/09/2022	Scale: 1:625

Appendix 11: ENF/2021/434 planning enforcement appeal received with start date of 7th December 2022 under reference APP/W1715/C/22/3311550.

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/W1715/C/22/3311550

A. APPELLANT DETAILS

Name Mr Anwar Hmimssa

Address
7 Lynton Road
Hedge End
SOUTHAMPTON
SO30 4EY

Phone number

Email

Preferred contact method

Email ☒ Post ☐

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes ☐ No ☒

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☐ No ☒

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority Eastleigh Borough Council

Date of issue of enforcement notice 20/10/2022

Effective date of enforcement notice 24/11/2022

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes ☒ No ☐

Address
7 Lynton Road
Hedge End
SOUTHAMPTON

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

☐ No

What is your/the appellant's interest in the land/building?

Owner



Tenant



Mortgagee



None of the above



E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

☐ No

(a) That planning permission should be granted for what is alleged in the notice.



(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.



The facts are set out in

☒ the box below

The new fences that were erected were replaced like for like by a garden landscaper. The only difference being we used concrete posts to extend the life expectancy as the wooden ones previously used were rotten. I bought the property in May 2018 and the existing fences were already in situ and had been for a long time previous to my ownership. The company that carried out the work of replacing the fences have sent me a letter confirming that they only replaced like for like and no other alterations/additions were made.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").



(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.



(e) The notice was not properly served on everyone with an interest in the land.



(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.



(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.



F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations



(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land?

Yes

☒ No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts?

Yes

☐ No

2. Hearing



3. Inquiry



G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes ☐ No ☒

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes ☒ No ☐

☒ the box below

We do not feel that planning permission is required as the fences were replaced like for like and we have only upgraded them for a better quality due to deterioration of the existing fences.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes ☐ No ☒

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

☒ see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

☒ see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr Anwar Hmimssa

Date

21/11/2022 09:56:00

Name

Mr Anwar Hmimssa

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form

- locating your local planning authority's email address:

<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>

- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: Enforcement Notice.jpg
File name: Enforcement Notice2.jpg
File name: Enforcement Notice3.jpg
File name: Enforcement Notice4.jpg
File name: enforcement notice5.jpg

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 02. The Plan.
File name: Plan - 7 Lynton Road.jpg

Completed by MR ANWAR HMIMSSA

Date 21/11/2022 09:56:00