

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) (as amended)

STATEMENT OF CASE

Enforcement Notice appeal against Enforcement Notice issued by Eastleigh Borough Council

Appeal by Mr James Bowers – The Bungalow, Tanhouse Lane, Botley, Southampton Hampshire SO30 2SZ

Site – The Bungalow, Tanhouse Lane, Botley, Southampton Hampshire SO30 2SZ

Planning Inspectorate reference: APP/W1715/C/23/3329379

Local Authority reference: ENF/2025/445

Eastleigh Borough Council

Eastleigh House

Upper Market Street

Eastleigh

Hampshire

SO50 9YN

16 July 2026

INTRODUCTION

1. This statement is in respect of an appeal made by Mr James Bowers, owner/occupier of land known as The Bungalow, Tanhouse Lane, Botley, Southampton, Hampshire, SO30 2SZ (“the Appellant”) against the decision of Eastleigh Borough Council (“the Council”) to issue an Enforcement Notice.
2. On 17 April 2026 an Enforcement Notice was issued and served on the Appellant for a breach of planning control; specifically;
 - (i) Without planning permission, the creation of an earth bund along the northern boundary;
 - (ii) Without planning permission, the erection of 1.8 metre high fencing measuring approximately 90 metres in length along the southern boundary adjacent to Tanhouse Lane;
 - (iii) Without planning permission, the erection of 1.8 metre high fencing along the western, northern and eastern boundaries;
 - (iv) Without planning permission, the installation of wooden posts on the grass verge along the southern boundary;
 - (v) Without planning permission, the installation of kerbing;
 - (vi) Without planning permission, the importation and deposit of hardcore and other materials to level the Land and create a hardstanding.

REASONS FOR ISSUING THE ENFORCEMENT NOTICE

3. The reasons for issuing the Enforcement Notice are as follows:

It appears to the Council that the above breach of planning control has occurred within the last ten years and that steps should be taken to remedy the breach in accordance with s.173(4) of the above Act.

The site lies within the countryside where policies seek to protect the intrinsic character of the rural area. The removal of a substantial number of trees, the introduction of extensive hardstanding, engineered bunding, the extensive run of close-boarded fencing and engineered kerbing has resulted in a visually intrusive and incongruous form of development that is urbanising in appearance. The development fails to respect the site’s rural and wooded context and erodes the openness and undeveloped character of the countryside, causing demonstrable harm to landscape character and visual amenity.

The Council has considered whether planning permission should be granted for the development as carried out. However, the scale, extent, and form of the works are such that they conflict fundamentally with countryside protection policies of the adopted Eastleigh Local Plan. There are no material considerations or public benefits that would outweigh the identified harm, nor is there evidence that the development could be made acceptable through the imposition of planning conditions.

The requirements of the Notice have been carefully drafted to remedy the identified harm and are limited to what is necessary to achieve that purpose. They do not exceed what is required to address the breach of planning control. In particular, the

removal of the bunding, fencing, and imported hardcore, and the restoration of the land to its former condition, are necessary and proportionate steps. No lesser measures would overcome the harm identified.

Accordingly, it is considered expedient to take enforcement action.

The above breach is in contravention of the following policies:

- Policy S5– New development in the countryside;
- Policy DM1 – General criteria for new development.

LOCATION AND DESCRIPTION OF APPEAL SITE AND SURROUNDING AREA

4. The site lies within a rural area characterised by dispersed dwellings, agricultural land, woodland and dense scrub, paddocks and open countryside. The prevailing character is one of openness, all be it with some views reduced by boundary vegetation and areas of woodland/scrub, with built form appearing sporadic and set within a predominantly natural landscape framework. A key feature of this rural context is Tanhouse Lane itself. The lane is narrow and rural in character, with an informal appearance that reflects its function as a lightly trafficked country track rather than a formalised urban street. It is bound in places by hedgerows, trees and vegetation, and lacks the engineered features associated with residential estate roads such as pavements, street lighting or continuous built frontage. As a result, the lane contributes positively to the verdant character and perception of countryside and reinforces the sense that development in this area is dispersed and closely integrated with the rural landscape.
5. Whilst the site has been subject to recent works including clearance of vegetation, erection of boundary fencing and the formation of hardstanding, these works are unauthorised and are currently the subject of enforcement action and this associated enforcement appeal. As such, they carry limited weight in the planning assessment and do not represent an established or lawful change in the baseline character of the site.

RELEVANT PLANNING HISTORY

6. The land within the appellant's ownership was the subject of a recent planning application for 'permission in principle' for a new dwelling which was refused permission on 24th June 2026 ref. [V/26/101391](#). The grounds for refusal are set out below:

1 - The proposed development would result in the erection of a new dwelling within the countryside, outside the defined urban edge, in an isolated location that is physically separated from the settlement and does not form part of the built-up area. The proposal does not accord with any of the forms of development supported by Policy S5 of the Eastleigh Borough Local Plan 2016–2036 and no exceptional circumstances have been demonstrated to justify a departure from the development plan.

The proposal is contrary to the objectives of paragraph 84 of the National Planning Policy Framework which seeks to avoid isolated homes in the countryside unless specific exceptions apply. The proposal is therefore contrary to Policy S5 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

2 - The proposed development, by reason of its siting within a rural and visually distinct countryside location, would introduce residential built form, domestic activity, parking, boundary treatments and associated paraphernalia into land that contributes to the rural character and appearance of the area. The development would result in harmful encroachment and an urbanising impact that would erode the intrinsic character and beauty of the countryside.

The proposal would therefore fail to respect or respond positively to the character, appearance and local distinctiveness of the area and would be contrary to Policies S5 and DM1 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

3 - The applicant has failed to demonstrate that the site benefits from lawful and suitable vehicular access, or that Tanhouse Lane / Botley Bridleway 14 is capable of safely accommodating the vehicle movements associated with the proposed dwelling. In the absence of evidence confirming existing vehicle access rights and details of regular passing spaces along the bridleway, the Local Planning Authority cannot be satisfied that development-related vehicle movements would avoid unacceptable conflict with pedestrians, equestrians, other non-motorised users and any vehicles with existing access rights.

The proposal has therefore failed to demonstrate that safe and suitable access can be achieved and would result in an unacceptable impact on highway safety and the safe use of the public bridleway, contrary to Policy DM13 of the Eastleigh Borough Local Plan 2016–2036 and the highway safety objectives of the National Planning Policy Framework.

4 - The application site is located in an unsustainable and poorly accessible location, accessed via an unlit rural bridleway without footway provision or other infrastructure that would provide safe, attractive and convenient access to day-to-day services and facilities by sustainable modes of transport. Future occupiers would be likely to rely heavily on the private car for most journeys.

The proposal would therefore fail to promote sustainable travel patterns and would be contrary to Policy DM13 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

5 - The application site lies within the catchment of internationally designated Solent habitat sites and within relevant zones of influence for recreational pressure on both the Solent and New Forest designated sites. The proposed residential development would give rise to likely significant effects through increased nutrient loading and increased recreational pressure, and the submitted information and unilateral undertaking do not secure a specific, calculated and enforceable package of mitigation to address nutrient neutrality or recreational disturbance impacts. In the absence of secured and adequate mitigation, the Council, as competent authority, is unable to conclude beyond reasonable scientific doubt that the proposal would not adversely affect the integrity of the Solent and Southampton Water SPA and Ramsar site, the Solent Maritime SAC, the Solent and Isle of Wight Lagoons SAC, and the New Forest SAC, SPA and Ramsar site, either alone or in combination with other plans or projects.

The proposal therefore constitutes habitats development for which Permission in Principle cannot be granted and is contrary to Article 5B(1) of the Town and

Country Planning (Permission in Principle) Order 2017, the Conservation of Habitats and Species Regulations 2017, Policy DM11 of the Eastleigh Borough Local Plan 2016–2036, and the National Planning Policy Framework.

RELEVANT PLANNING POLICY

7. The relevant planning policies relating to the enforcement notice are Saved Policy DM1 and Policy S5.

DM1 of the Eastleigh Borough Local Plan (2016-2036) states:

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.

Policy S5: Principle of Development Outside Settlements

8. Policy S5 of the Eastleigh Borough Local Plan 2016–2036 (EBLP) restricts development within the countryside to a limited range of circumstances. The proposal does not fall within any of the forms of development supported by Policy S5 and therefore conflicts with the development plan.

9. Policy S5 of the EBLP also seeks to protect the character and appearance of the countryside by directing development to appropriate locations. This objective is consistent with the NPPF which seeks to avoid the development of isolated homes in the countryside other than in exceptional circumstances. The NPPF identifies a limited range of circumstances where such development may be justified, including where it is essential for a rural worker, represents the optimal viable use of a heritage asset, involves the re-use of a redundant or disused building, or is of exceptional quality and innovative design. The proposal is not for any of these circumstances.

GROUND OF APPEAL

10. The appellant has appealed against the Enforcement Notice on the following grounds of appeal;

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

Ground (g) – Any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Appellants comments below with EBC responses in blue;

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

12. It is considered that 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.

13. Requirements

(a) As issued, the EN requires the following:

i. Cease all operational development and engineering operations associated with the breach of planning control

ii. Remove the earth bund.

- iii. Remove all gates, fencing, kerbing, posts and utility infrastructure.*
- iv. Remove all hardcore and imported materials.*
- v. Restore the Land to its condition prior to the breach of planning control.*

(b) The appellant agrees to:

- cease all operations;
- the removal of the earth bund;
- the removal of fencing from land outside his ownership; and
- restore land outside his ownership to an agreed woodland specification

(c) The appellant considers that it is not necessary to remove the 1.8m fence and gates on land within his ownership in order to remedy the harm to amenity.

(d) Planning permission has recently been granted for a 1.8m fence fronting onto Tanhouse Lane, a short distance from the land subject of the enforcement notice @ Cricketwood (ref.H/25/100598).

(e) The appellant agrees to the removal of the 1.8m fence on land which is not within his ownership.

In response to points a) to c), the Council considers that retention of the 1.8 metre close-boarded fence and gates within the Appellant's ownership would not remedy the planning harm. The harm arises from the cumulative urbanising effect of the unauthorised boundary treatment, hard surfacing, kerbing, posts, bunding and associated works within a rural countryside setting. The fencing forms a long, prominent, domestic-style enclosure along Tanhouse Lane and around the site, replacing the previously softer, vegetated and informal rural edge with a hard, engineered and suburban form of boundary treatment. It is therefore visually intrusive in its own right and also reinforces the impression of an intended domestic plot in an area where such development has been found unacceptable. Retaining the fencing would leave a substantial element of the harmful development in place and would not restore the rural character and appearance of the land. The development therefore fails to respect or respond positively to the character, appearance and local distinctiveness of the area and conflicts with Policies S5 and DM1 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

In response to point d) the planning permission granted under H/25/100598 related to fencing to the front of a residential property and was considered appropriate in the immediate residential context for the following reasons:

“The development related to the retention of a 1.8m high close-board timber fence running along the roadside boundary of the site. Close-board fencing of this height can appear visually prominent within rural settings where more traditional boundary treatments such as native hedgerows or post-and-rail fencing are typically present. In this instance, the fence is set behind existing vegetation in places and is accompanied by hedge planting along its length. A recent site visit confirmed that shrub planting has been installed along the roadside side of the fence, with additional native hedge planting introduced within the site on the garden side of the boundary. Collectively, these plantings provide a continuous

vegetated edge which will soften the appearance of the fence over time as the planting matures.

Both the Council's Landscape Officer and Ecologist have reviewed the planting arrangements. Whilst it was noted that a mixed native hedgerow along the roadside boundary would have been preferable within this semi-rural context, neither consultee raised an objection to the retention of the boundary treatment. It was acknowledged that the planting will mature and further soften the visual impact of the fence.

On balance, whilst the fence appears somewhat prominent in the short term, the presence of hedge planting and the likely increase in screening as vegetation establishes means that the development would not result in unacceptable harm to the character or appearance of the surrounding area".

As demonstrated above the local circumstances applicable to the fence at Cricketwood are substantially different to those at the appeal site and does not amount to a reason to justify the otherwise unacceptable development in this instance.

14. Remove kerbing

- (f) The appellant considers that the required removal of areas of kerbing within his ownership is not necessary to remedy the harm to amenity caused by the alleged breach. It is questionable whether the kerbing is even 'development'. In any event, the kerbing is simply edging to an area of landscaping which will be considered as part of any subsequent detailed consent for the proposed dwelling which will remedy any harm to amenity caused by the alleged breach of planning control.

In response to point f), planning application V/26/101391 for a new dwelling has been refused and therefore cannot be relied upon as a mechanism for regularising or mitigating the unauthorised works. The kerbing is not merely incidental landscaping: in combination with the hardstanding, posts, fencing and access-related works it introduces a formal engineered edge which is alien to the informal rural character of Tanhouse Lane. Whether considered alone or cumulatively, the kerbing contributes to the urbanising effect of the development and reinforces the appearance of a domesticated plot rather than open countryside. Its removal is therefore necessary to remedy the harm and to restore the land to a condition compatible with Policies S5 and DM1 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

15. Remove posts

- (g) The appellant considers that the required removal of the low posts adjacent to the public right of way is not necessary to remedy the harm to amenity allegedly caused by the breach.
- (h) It is questionable whether the posts represent development at all, and are at best de minimis. The posts merely prevent the public from parking on the verge which forms part of the appellant's land.

In response to points g) and h), the Council does not accept that the posts are de

minimis in this context. The posts form part of a wider package of unauthorised works which has formalised and domesticated the edge of Tanhouse Lane. Their purpose and effect is to manage the verge as if it were part of a private residential frontage, which is inconsistent with the informal and rural character of the lane and public right of way. Even if each post were modest when viewed in isolation, their collective visual effect, together with the fencing, kerbing and hardstanding, materially contributes to the urbanising impact and the erosion of the countryside character. Their removal is therefore necessary and proportionate.

16. Remove utility infrastructure

- (i) The appellant considers that the required removal of all utility infrastructure is not necessary to remedy the harm to amenity.
- (j) The electricity poles pre-date the alleged breach. It is acknowledged that an electricity box has been installed by the infrastructure provider on land which is potentially outside the appellant's ownership. This can be re-sited to land within the appellant's ownership if required, without harm to amenity.

In response to points i) and j), the Council accepts that any infrastructure which can be demonstrated, with evidence, to have lawfully pre-dated the breach would not need to be removed as part of the remedy. However, the unauthorised utility box and any associated infrastructure introduced as part of, or to facilitate, the unauthorised development materially contribute to the perception of the land as a serviced domestic plot and therefore to the urbanising harm identified. Re-siting the equipment within the Appellant's ownership would not overcome that harm if it remains visible and associated with the unauthorised domestication of the site. The requirement is therefore aimed at removing infrastructure associated with the breach and restoring the rural character of the land, while allowing genuinely pre-existing lawful infrastructure to be distinguished by evidence if necessary.

17. Remove all imported materials

- (k) The appellant considers that it is not necessary to remove all hardcore and imported materials in order to remedy the harm to amenity caused by the unauthorised activity.
- (l) The imported materials have not resulted in a material change in levels as observed from the public realm.
- (m) The removal of the imported material will necessitate (otherwise avoidable) additional vehicle movements along the public right of way.
- (n) In any event, the appellant agrees to reinstate the land outside his ownership to a woodland specification to be agreed with the landowner. Once the woodland has been reinstated (and maintained), the land outside the appellant's ownership will appear as it did prior to the alleged breach of planning control. Therefore, the reinstatement of the woodland will remedy any harm to amenity caused. Without prejudice, and notwithstanding the restoration of the woodland, if the Inspector considers that the imported material has nevertheless resulted in harm to amenity, the appellant agrees to remove the imported material on the land outside their

ownership prior to reinstating the woodland.

- (o) The appellant considers that it is not necessary to remove all hardcore and imported materials on land within his ownership in order to remedy the harm to amenity caused by the unauthorised activity.
- (p) The imported materials have not resulted in a material change in levels as observed from the public realm. The removal of the imported material will necessitate (otherwise avoidable) additional vehicle movements along the public right of way. As above, the land within the appellant's ownership is subject of a current planning application for a new dwelling which, if approved, will require approval for landscaping works. The re-establishment of a dwelling (there was previously a dwelling on the appellant's land until the 1980s) and associated landscaping, including associated hardstanding will remedy any harm to amenity caused by the alleged breach of planning control.

In response to points k) to p), the Council considers that the importation and spreading of hardcore and other materials is a central component of the breach and cannot be retained without leaving the principal harm substantially in place. The hardstanding changes the character and function of the land from an informal rural parcel to a levelled and engineered surface capable of supporting domestic, storage, parking or access-related activity.

The Appellant's assertion that there is no material change in levels as viewed from the public realm does not address the broader planning harm, which includes the loss of rural character, the engineered appearance of the land, the facilitation of further domestic use and the cumulative impact with the fencing, kerbing, posts and bunding.

The additional vehicle movements required to remove the material would be temporary and capable of being managed, whereas retention of the material would result in ongoing and permanent harm. The refused dwelling application does not provide a fallback or justification for retaining the imported material. Removal is therefore necessary, reasonable and proportionate.

18. Restoration of the land

- (q) The appellant considers that it is not necessary to restore all of the land to its condition prior to the alleged breach of planning control in order to remedy the harm to amenity.
- (r) Planning permission is not required for the clearance of vegetation so there is no breach in this respect.
- (s) As above, the land within the appellant's ownership is subject of a current planning application for a new dwelling which, if approved, will require approval for landscaping works, including associated hardstanding will remedy any harm to amenity caused by the alleged breach of planning control.

In response to points q) to s), permission has been refused for the proposed dwelling and associated infrastructure. The refusal confirms that the land is not accepted as

a suitable residential plot and that the Appellant cannot rely on a prospective future permission to justify retention of works which are presently unauthorised and harmful.

Although some vegetation clearance may not, in isolation, require planning permission, the Notice is not directed at vegetation clearance as a standalone operation. It is directed at the unauthorised operational development and engineering works and at securing restoration so far as necessary to remedy the planning harm caused by those works. Given the scale of the clearance, imported material, fencing, kerbing, posts, bunding and associated infrastructure, restoration is required to re-establish an appropriate rural landscape character.

The requirement to restore the land to its former condition is therefore properly related to the purpose of the Notice and is necessary to achieve compliance with Policies S5 and DM1 of the Eastleigh Borough Local Plan 2016–2036 and the National Planning Policy Framework.

19. Ground (g) – Any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

- a) The Enforcement Notice requires compliance with the steps given within 2 months of the EN taking effect. In a letter dated 21 May 2026, EBC confirmed the variation to the compliance period from 2 months to 4 months.
- b) Without prejudice to the Ground (f) appeal, the period for compliance specified in the notice falls short of what should reasonably be allowed.

20. Cease all operational development

- c) This has already occurred in accordance with the required time for compliance.

The Council does not accept that operational development had ceased when asserted. Further importation of materials was observed after service of the Enforcement Notice, demonstrating that the breach remained active. This reinforces the need for a clear and enforceable compliance period and supports the Council's position that the Notice requirements are necessary to prevent further consolidation of the unauthorised development.

21. Remove earth bund

- d) It is considered that these works can be completed within 4 months.

The requirements of the Enforcement Notice were varied to amend the compliance period from 2 to 4 months – See Appendix 11.

22. Remove all gate, fencing, kerbing, posts and utility structure

- e) Without prejudice to ground (f) the removal of gates, fencing, kerbing, and posts could be removed within 4 months..
- f) Removal of utility infrastructure must be carried out by the utility company and

therefore, timescales will be conditional on their capacity to implement the changes. The wait for the installation of the equipment was approximately 6 months. It is reasonable to conclude that further works could follow a similar timescale.

The requirements of the Enforcement Notice were varied to amend the compliance period from 2 to 4 months – See Appendix 11.

If the utility company requires more than 4 months, this can be formally requested to the LPA.

23. Remove all hardcore and imported materials

- g) To source a contractor to carry out the removal of imported materials, and for the removal to be undertaken could take 4 months (weather permitting).

The requirements of the Enforcement Notice were varied to amend the compliance period from 2 to 4 months – See Appendix 11.

24. Restore land to its condition prior to the breach of planning control

- h) The timescale for restoration of the land is unreasonable. As we enter the summer months, there is a high risk that new planting could fail due to higher temperatures and low rainfall. Optimum planting would be in the Autumn/Winter months.
- i) The restoration of the land to woodland can only take place once the imported material has been removed (up to 4 months) and then the sourcing/delivery and planting of woodland could take between a further 4 months depending on the time of year.
- j) It would be more reasonable to require the land to be restored during the next available planting season (taking into account a period of 4 months to prepare the ground for planting).

The Council has already acted reasonably by varying the compliance period from 2 months to 4 months. The Council also accepts that any planting element of the restoration can be undertaken during the next available planting season, October 2026 to March 2027, provided that all preparatory works required by the Notice, including removal of unauthorised structures, hardstanding, imported materials, kerbing, posts and associated infrastructure, are completed within the varied compliance period. This approach balances practical implementation with the need to secure timely remediation of the ongoing planning harm.

25. ENF/2025/445 Enforcement investigation

We received a report of a planning breach on 13 October 2025, relating to alleged unauthorised development works being carried out on the land in question. An initial desktop investigation uncovered no recent planning applications / decisions for these works.

A site visit was carried out on the same day (13/10/25) and photos taken of what works were taking place. It was observed that a significant large amount of trees/hedges/vegetation had been cleared and new fencing erected along Tanhouse Lane. The following was noted;

- approx. 90m in length along the front (with two openings left for gates (total length included)
- approx. 6/7 piles of soil on site
- approx. 1-1.5m bund created along entire rear boundary
- fencing yet to be completed with areas on the left-hand side and right-hand side to be completed

A digger was also observed on site. However, no persons were present at the time of the visit.

Further desktop investigations took place in October 2025 to establish the ownership of the land as per Land Registry information. HP202795 was registered to JAMES MICHAEL JESSE BOWERS (**see Appendix 01**) and HP740507 was registered to HAMPSHIRE COUNTY COUNCIL (HCC) (**see Appendix 02**). Therefore, contact was made with HCC to check if they were aware of these clearance works.

A Temporary Stop Notice was served in person to the Appellant on 15 October 2025 (**see Appendix 03**) requiring them to cease all development and engineering operations at the Land including the laying of hardcore and erection of fencing.

On 23 October 2025 a compliance check was carried out and additional fencing had been erected (**see Appendix 04**). The large piles of soil had also nearly all been cleared (either spread on the land or removed from site) – **see Appendix 05**.

HCC responded on 24 October advising that the clearance works carried out by the Appellant had extended past his land holding which had resulted in an encroachment onto land owned by HCC.

A site visit was carried out on 03 November 2025 and photos taken. No more development works were observed with the only change being the heras fencing at the two site entrances covered with black sheeting.

On 10 November 2025 HCC commissioned a land survey to conclude the level of alleged encroachment.

An email was received on 12 November 2025 from the Appellant's Planning Agent stating they had met on site on 06 November 2025 to establish a way forward. They advised a planning application for a new dwelling would be prepared shortly.

The agent also forwarded on receipts of the imported material as requested (**see Appendix 06**)

A further email was received from the agent on 13 November advising that no further work would be carried out on the land either before the TSN expired (09/12/25) or after.

They also advised the planning application would be submitted early in the New Year.

The HCC land survey report was received on 17 November 2025 (**see Appendix 07**) and advised that their Litigation team had been instructed to contact the Appellant to deal with the encroachment. The size of the Appellant's land was measured at approx. 37m x 37m however, the land cleared and fenced measured approx. 91m x 48m, incorporating a vast area of HCC owned land.

On 24 November 2025 planning advice was sent to the agent advising the following;

This is a countryside location where such development would need to be fully justified in accordance with policy S5 – residential would not be allowed in this location and so we would not be likely to support any approach for planning permission for a new dwelling in this location. Unless an agricultural/policy compliant justification has been advanced then it would appear that the development represents unjustified development in the countryside, and the alterations would have an adverse impact on the visual amenity of the countryside area – introducing an urbanising effect in an otherwise undeveloped area of countryside

A letter was sent to the Appellant by the Litigation team at HCC on 12 December outlining the trespass and requesting contact within 10 days. This letter was addressed to The Bungalow, Tanhouse Lane, Botley, Southampton Hampshire SO30 2SZ. No return to sender was received.

During a subsequent site visit carried out on 18 December 2025 it was noted that a new green unit was installed along the rear boundary in front of the bund. This is believed to be the utility unit recently installed.

On 19 December 2026 HCC provided an aerial image of the land that had been cleared;



A site visit was carried out on 16 January 2026 where no changes were observed to the site since previous site visit in December 2025.

An email from HCC received on 02 February 2026 advised that a new gate had been installed on site.



Telephone call received from Appellant on 03 February stating they had received no correspondence from HCC. They provided an email address to use for all correspondence and any formal letters to be sent to Sunnyside, Heath House Lane, Hedge End, Southampton Hampshire SO30 0LB. These details were forwarded to HCC.



An email was sent to the Appellant (*using the email address provided on 03 February*) from the HCC Litigation team on 05 February 2026 with a copy of the previous letter dated 12 December and additional information.

Email received from HCC on 30 March 2026 advising further works had been carried out on site and no response had been received from the Appellant to the legal letters sent to them.

Following ongoing discussions regarding further formal action, an additional site visit was carried out on 13 April 2026 to take up to date photos of what has taken place on site. 16no. new posts had been installed along the grass verge situated along the front of the site. The kerbing raised by HCC has been installed around the large tree to the front of the site.

A nameplate had been erected on the front boundary fence adjacent to the Left Hand Side (LHS) entrance which reads 'The Bungalow'. Beneath this sign is a post box which has also been attached to the fence. The bund that runs along the rear of the site remains in place.

The Appellant called on 14 April to advise that they had still not received any letters from HCC. He also advised no further works had been carried out as agreed late 2025 which was incorrect. Copies of the 12 December HCC letter and 05 February email were sent once again to the Appellant.

On 23 April 2026 a Stop Notice (**see Appendix 08**) and an Enforcement Notice (**see Appendix 09**) were hand served on the Appellant at the site. Formal letter with notices included posted in post box on site and copies of the Notice were also attached to the gate. The Appellant arrived shortly after and after being advised of the contents of the letter I left the site.

A copy of the letter and Notices were then hand served to the residential address the Appellant resides at, Sunnyside, Heath House Lane, Hedge End, Southampton Hampshire.

Email received on the same day from the agent asking for copies of earlier correspondence served upon the Appellant to be sent to them for review. These copies were sent to the agent on 28 April 2026. They also advised the planning application was to be submitted late April.

On 08 May 2026 an application was received under reference V/26/101391. This was the application that the agent had advised on 12 November would be submitted. The proposal was for Permission in Principle – Erection of 1no. self-build dwelling. This application was refused on 24 June 2026 – **see Appendix 10**.

Email sent from agent to HCC Litigation team on 13 May 2026 introducing himself and requesting copies of all correspondence prior to them advising their client.

After the agent had suggested the compliance period for the EN was unreasonable and following internal discussions between the Planning Enforcement, Planning and Legal teams, it was determined that the initial Enforcement Notice would be varied to amend the time required for compliance **from 2 months to 4 months**. A formal variation of the Enforcement Notice dated 20 May 2026 was sent to the agent by email on 21 May 2026 – **see Appendix 11**.

An appeal was received on 05 June 2026.

A site visit was carried out on 10 June 2026. The front of the site remained the same but there were multiple large piles of material deposited within the site.



26. SUMMARY AND CONCLUSION

27. The Council considers there has been a clear breach of planning control as there has been no planning permission granted for the works stated in the Enforcement Notice.
28. The appeal has not demonstrated that the development accords with saved policies of the Eastleigh Borough Local Plan (2016-2036).
29. The close-boarded fencing along the front of the site exceeds 1 metre in height and is adjacent to Tanhouse Lane, which functions as a highway/public right of way for the purposes of the permitted development restrictions. It therefore does not benefit from deemed consent under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. In any event, the fencing must also be considered as part of the wider unauthorised development and its cumulative effect on the rural character of the area.
30. The Council has identified clear planning harm arising from the development both individually and cumulatively. Lesser steps would leave material elements of the breach in place and would fail to remedy the urbanising impact, the erosion of countryside character and the visual harm to Tanhouse Lane. The requirements of the Notice are therefore targeted, necessary and proportionate to the objective of remedying the breach and restoring the land to a condition compatible with the development plan.
31. For the reasons set out above, the Inspector is respectfully requested to dismiss the appeal and uphold the Enforcement Notice, subject only to the Council's accepted variation regarding the timing of planting within the next available planting season.

APPENDICES

Appendix 01: Land Registry HP202795 – JAMES MICHAEL JESSE BOWERS

Appendix 02: Land Registry HP740507 – HAMPSHIRE COUNTY COUNCIL

Appendix 03: Temporary Stop Notice served 15 October 2025

Appendix 04: Additional fencing erected 23 October 2025

Appendix 05: Piles of soil spread across site dated 23 October 2025

Appendix 06: Receipts of imported materials

Appendix 07: HCC Land Survey Report dated November 2025

Appendix 08: Stop Notice dated 23 April 2026

Appendix 09: Enforcement Notice dated 23 April 2026

Appendix 10: V/26/101931 Decision Notice – Refusal dated 24 June 2026

Appendix 11: Variation to Enforcement Notice dated 20 May 2026