

A

RE: Land at North End Of Benskins Lane Noak Hill and adjacent to Curtis
Plantation

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE A

- TO:**
1. The Owner of the said land
 2. The Occupier of the said land
 3. Bennelong Golf Partners Limited, Blue Mountain Golf Centre, Wood Lane, Bracknell, Berkshire RG42 4EX
 4. Stapleford Abbots Golf Club, Horsemanside, Tysea Hill, Romford RM4 1JU
 5. Crown Golf, Pyrford Golf Club, Warren Lane, Pyrford, Surrey GU22 8XR
 6. National Westminster Bank PLC of 135 Bishopsgate, London EC2M 3UR

ISSUED BY: London Borough of Havering

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

The Land on the North- west side of Benskins Lane Noak Hill and adjacent to Curtis Plantation Romford shown hatched black on the attached Plan .

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the erection of fences all around the said land and gates in excess of 2 metres high.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years. The erection of fences and gates was substantially completed less than four years ago. Policy DC61 of the Local Development Framework is the Council's general design policy which seeks to ensure that all

development is compatible with its surrounding environment. The site lies within the Metropolitan Green Belt. The height of the fences and gates are contrary to development plan policies and harmful to the visual amenities of the area so that they have a detrimental impact on the character and appearance of the Green Belt. The Council do not consider that planning permission should be given because planning conditions could not overcome these problems.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Reduce the boundary fences erected round the said land to a height no greater than 2 metres

Time for compliance: three months from the effective date of this Notice

- (ii) Reduce the gates erected on the said land to a height no greater than 2 metres

Time for compliance: three months from the effective date of this notice

- (iii) Remove all building materials, rubble, excess and equipment arising from compliance with the above requirements from the said land

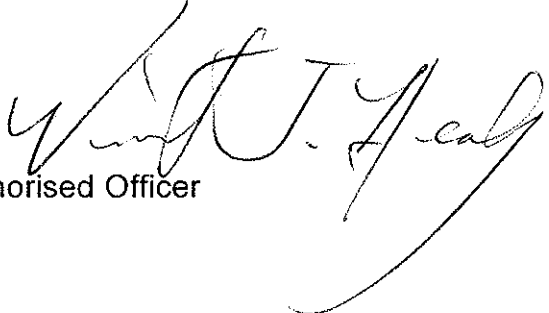
Time for compliance: three months from the effective date of this notice.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 10th November 2008, unless an appeal is made against it beforehand

Dated: 29th September 2008

Signed:


Authorised Officer

on behalf of London Borough of Havering
Town Hall
Main Road
Romford RM1 3BD

YOUR RIGHT OF APPEAL

You can appeal against this Enforcement Notice to the Secretary of State by the 10th November 2008. Further details are given in the attached explanatory note.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on 10th November 2008 you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice.

FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.

EXPLANATORY NOTES

STATUTORY PROVISIONS

A summary of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

YOUR RIGHT OF APPEAL

You can appeal against this Notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Secretary of State on 10th November 2008. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. If you appeal you should use the enclosed appeal forms. Two copies are for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State a copy of the Enforcement Notice.

GROUND OF APPEAL

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1991 and are also set out on pages 2 - 5 the enclosed appeal forms.

PLANNING APPLICATION FEE

Should you wish to appeal on ground (a) - that planning permission should be granted for the unauthorised development - then a fee of £ 170.00 is payable both to the Secretary of State and to the Council. If the fees are not paid then that ground of appeal will not be valid.

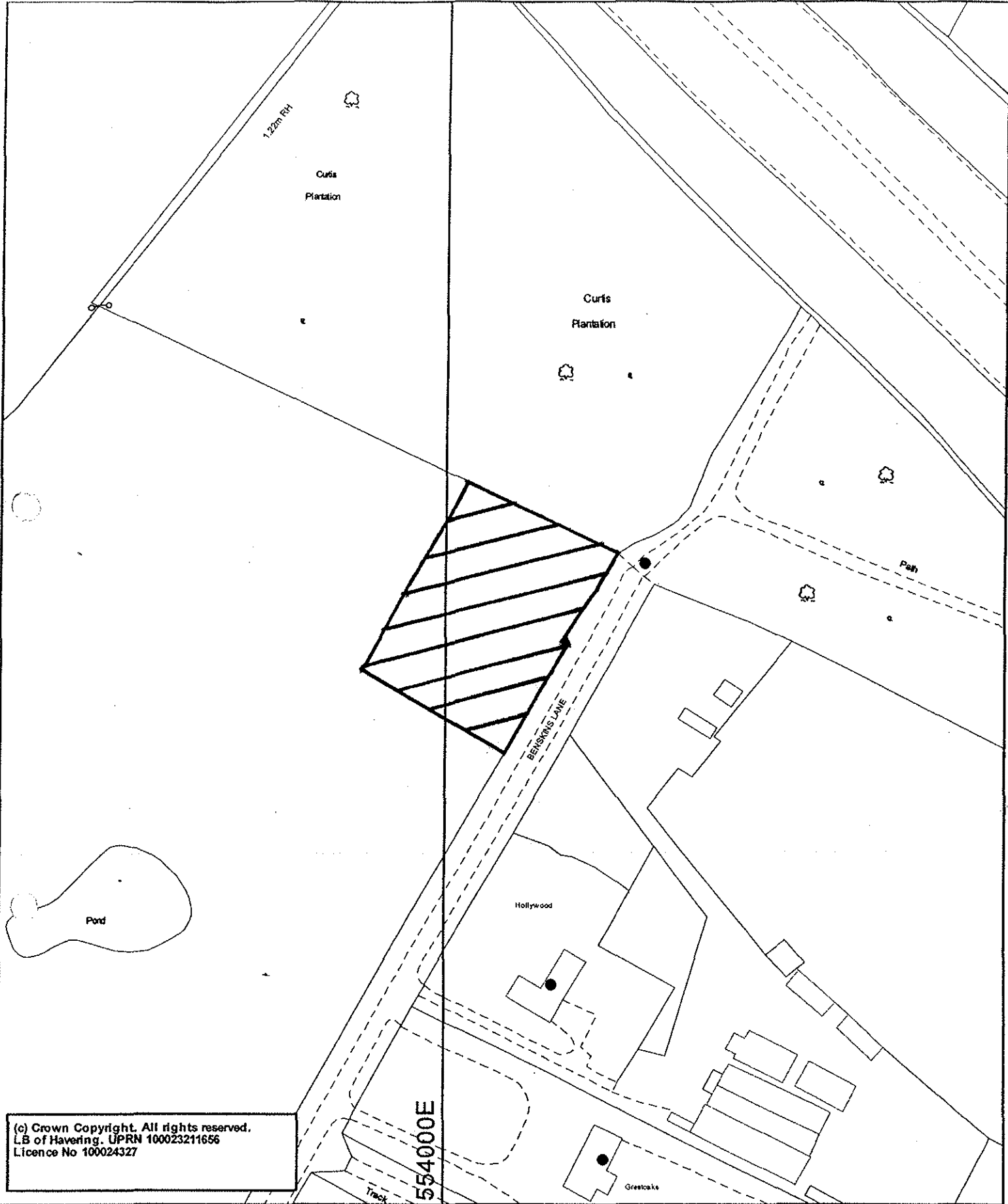
STATEMENT ON GROUNDS OF APPEAL

You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

RECIPIENTS OF THE ENFORCEMENT NOTICE

The names and addresses of all the persons on whom the Enforcement Notice has been served are:

1. The Owner of the said land
2. The Occupier of the said land
3. Bennelong Golf Partners Limited, Blue Mountain Golf Centre, Wood Lane, Bracknell, Berkshire RG42 4EX
4. Stapleford Abbots Golf Club, Horsemanside, Tysea Hill, Romford RM4 1JU
5. Crown Golf, Pyrford Golf Club, Warren Lane, Pyrford, Surrey GU22 8XR
- 6.. National Westminster Bank PLC of 135 Bishopsgate, London EC2 3UR



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	Map Reference: TQ5494NW Date: 01/08/2008	Scale: 1:1250	
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Land in Benskins Lane, Noak Hill, Romford

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London Borough of Havering
 Planning Department
 Mercury House, Mercury Gardens
 Romford, RM1 3SL
 Tel: 01708 434343

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Appeal Decisions

Site visit made on 15 June 2009

by **Ahsan U Ghafoor** BSc (Hons) MA
MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
30 June 2009

Appeal A Ref: APP/B5480/C/08/2089867

Land north-west side of Benskins Lane, Noak Hill, Romford, RM4 1LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Matthew Lynwood of Crown Golf against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF/572/07/GS 1865.
- The notice was issued on 29 September 2008.
- The breach of planning control as alleged in the notice is without planning permission, the erection of fences all around the said land and gates in excess of 2 metres high.
- The requirements of the notice are: (i) reduce the boundary fences erected round the said land to a height no greater than 2 metres (ii) reduce the gates erected on the said land to a height no greater than 2 metres (iii) remove all building materials, rubble, excess and equipment arising from compliance with the above requirements from the said land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Appeal B Ref: APP/B5480/C/08/2089869

Land north-west side of Benskins Lane, Noak Hill, Romford, RM4 1LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Matthew Lynwood of Crown Golf against an enforcement notice issued by the Council of the London Borough of Havering.
 - The Council's reference is ENF/572/07/GS.
 - The notice was issued on 29 September 2008.
 - The breach of planning control as alleged in the notice is without planning permission the change of use of the said land (i) to storage not in connection with the golf course or golf club-house of waste materials including skips, sacks, motor vehicles, and haulage containers on the said land (ii) to residential purposes by the stationing of a mobile home on the said land
 - The requirements of the notice are (i) stop using the land for all storage purposes which are not in connection with the adjoining golf course or golf club-house (ii) remove from the land haulage containers, skips, sacks, all waste materials, motor vehicles, equipment, machinery, rubble, and apparatus brought on to the land in connection with the unauthorised use (iii) Stop using the land for residential purposes by the stationing of a mobile home (iv) remove from the land the mobile home and all other materials associated with the unauthorised use.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

1. I dismiss both Appeal A and B and uphold the enforcement notices.

Procedural Matters

2. The face of both enforcement Notices record that they were served on 6 parties. No appeal was lodged on ground (e) and I can therefore be satisfied that all parties with an interest in the land were correctly served. The appeals that I am dealing with were lodged prior to the effective date of the Notices and have the effect of suspending them pending this decision. The fact that the property has subsequently been sold is therefore not material to my decision. The Notices should have been revealed to the new land owner as part of a local authority search.

Notice A - ground (f)

3. The single ground of appeal is that the requirements of the Notices are excessive and that lesser steps would overcome the objections. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred (s173(4)(a)). The second is to remedy any injury to amenity which has been caused by the breach (s173(4)(b)). The Notices, unfortunately, do not specifically indicate which of those two purposes they seek to achieve. Notice A requires the boundary fences and gates to be reduced to a height no greater than 2m. It follows that the purpose must be to remedy any injury to amenity (s173(4)(b)) and that can only happen by complying with its requirements.
4. The reasons in Notice A state policy DC61 of the Havering London Borough Local Development Framework 2008, which requires development to be compatible with its surroundings. Although some of the fence is located behind vegetation, it is visible from the highway. I agree with the Council that the gates and fences have a detrimental visual impact on the rural character of this part of the Green Belt, due to their overall height and scale.
5. I have considered the Appellant's view that the fence and gates are required for security reasons and inhibit trespassing onto the land. However, these are planning merits arguments and there is no ground (a) appeal before me. For an appeal to succeed on ground (f), it must be shown that requirements of the Notice exceed what is necessary to achieve its purpose of remedying the breach of planning control. Nonetheless, by taking the steps required by the Notice the site would remain cordoned off and it would be protected to some degree.
6. Taking all of the above points together, I find that there is nothing excessive in the steps required to remedy the injury to amenity. So, for the reasons set out above the Appeal A ground (f) fails.

Notice B - ground (f)

7. Turning to the purposes of Notice B, it requires the complete cessation of the site's use for storage and residential purposes. So, the purpose of the Notice must be to remedy the breach of planning control that has occurred by restoring the land to its condition before the breach took place (s173(4)(a)). That can only

happen by complying with the terms of the Notice. I find nothing excessive in the requirements and so the Appeal B ground (f) fails.

Conclusions

8. For the reasons given above and having considered all other matters raised, I conclude that the appeals should not succeed. I shall uphold both enforcement notices.

Ahsan U Ghafoor

INSPECTOR