The Planning Inspectorate

For official use only
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ENFORCEMENT NOTICE APPEAL FORM

If you need this document in large print, in audio format or in Braille, please contact our helpline on 0303 444 5000. **To help you fill in this form correctly please refer to the enclosed guidance leaflet "How to complete your enforcement appeal form".**

Please use a separate form for each appeal against each different enforcement notice.

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

PLEASE PRINT CLEARLY IN CAPITALS USING **BLACK** INK

A. APPELLANT DETAILS

See section A of the guidance leaflet.

Name: GILLIAN SHOOTER

Company/Group name (if applicable):

Address: 38 RED LANE
MELTHAM
HOLMFIRTH

Postcode: HD9 5LG

Daytime phone:

Fax:

I prefer to be contacted by Post [X] Email* [X]

*Email address:

B. AGENT DETAILS (IF ANY) FOR THE APPEAL

See section B of the guidance leaflet.

Name:

Company/Group name (if applicable):

Address:

Postcode:

Your reference:

Daytime phone:

Fax:

I prefer to be contacted by Post [ ] Email* [ ]

*Email address:

C. DETAILS OF THE APPEAL

See section C of the guidance leaflet.

Name of the LPA

Date of issue of enforcement notice

Effective date of enforcement notice

Reference number of the enforcement notice

D. APPEAL SITE ADDRESS

See section D of the guidance leaflet.

Address 38 RED LANE
MELTHAM
HOLMFIRTH Postcode HD9 5LG

Note: Failure to provide the full postcode may delay the processing of your appeal

Please answer the questions below:

1 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? If so, please describe them on a separate sheet. Yes [X] No [ ]

2 What is your/the appellant's interest in the land? owner [X] tenant [X] mortgagee [ ]

If none of those apply, did you/the appellant occupy the land under a written or oral licence BOTH on the date the enforcement notice was issued AND on the date of making this appeal? Yes [ ] No [ ]

If "No", what is your/the appellant's involvement with the land?

E. GROUNDS AND FACTS

See section E of the guidance leaflet to help you decide what to include in your grounds of appeal.

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? Yes [ ] No [ ]

Please tick which of the following grounds of appeal apply to your case and give the facts in support of each ground chosen (continue on a separate sheet if necessary).

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

Section 174(2)(a) of the Town and Country Planning Act says "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".

I REFER TO THE ENFORCEMENT NOTICE ISSUED TO ME BY KIRKLEES COUNCIL - REFERENCE DEV/SJH/ML/D23-1172
PLEASE FIND ANNEX A ENCLOSED WHICH PROVIDES AN ACCOUNT OF AN ON-GOING NEIGHBOUR DISPUTE BETWEEN ME AND THE COMPLAINANTS.
I ERECTED A RAISED PLATFORM TO THE REAR GARDEN OF MY HOME

E. GROUNDS AND FACTS (continued)

(a) (continued)

IN APPROX AUGUST 2012. THE PLATFORM WAS RAISED TO RUN LEVEL TO MY GROUND FLOOR. THE REASON FOR THIS WAS TO ENSURE THE SAFETY OF MY CHILDREN AND THAT THEY COULD AVOID NEGOTIATING STEPS INTO THE PLAY AREA

THERE IS A SIGNIFICANT HEIGHT DIFFERENCE BETWEEN MY PROPERTY AND NO 36 OF APPROX 1-4M MY PROPERTY BEING THE HIGHER OF THE TWO.

AS ANYONE STANDS IN MY HOUSE, WHICH HAS FRENCH DOORS TO THE DINING AREA, WE CAN SEE OVER THE FENCE INTO THE REAR CAR PARKING AREA - WHICH BELONGS TO MY HOUSE. AT NO POINT DOES THE RAISED PLATFORM NOR THE HEIGHT DIFFERENCE TO THE HOUSE DIRECTLY ENCROACH THE NEIGHBOURS PRIVACY

IN ORDER FOR THE PLATFORM TO BE LEVEL, TO MAINTAIN THE FRAME UNDERNEATH, THE EXTERNAL BLOCKWORK TO THE HOUSE AND THE DRAINS A VOID WAS REQUIRED TO ACCESS THESE AREAS. WITHIN THE HEIGHT DIFFERENCE OF THE HOUSE THERE IS ALSO A SLOPE ALONG THE WIDTH OF MY GARDEN WHICH ACCOMODATES THE LEVEL OF THE LAND.

I BELIEVE AND WOULD REQUEST RETROSPECTIVE PLANNING ON THE GROUNDS OF :-

i HEALTH AND SAFETY OF MY CHILDREN ENTERING & EXITING.

ii MAINTENENCE OF DRAINS AND FRAMEWORK.

iii SIGNIFICANT HEIGHT DIFFERENCE OF THE HOUSES

IV. OTHER MEASURES TO ENSURE PRIVACY ARE IN PLACE (SEE F)

V. I BELIVE THE PLATFORM TO BE WITHIN PERMITTED DEVELOPMENT (C)

VI. THIS COMPLAINT FORMS PART OF AN ON-GOING DISPUTE WHICH BEGAN AROUND FEB 2012.

VII. I AM FULLY AWARE OF 4 OTHER RAISED PLATFORMS WITHIN THE IMMEDIATE AREA

VIII. LESSER STEPS TO ENSURE PRIVACY HAVE BEEN ACTIONED

IX. TO ENSURE THE PLATFORM WAS LEVEL TO THE HOUSE AND TAKE ACCOUNT OF THE NATURAL SLOPE - ONE END OF THE FRAME IS 32CMS HIGH RISING TO 52CMS.

E. GROUNDS AND FACTS (continued)

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

Section 174(2)(b) says "that those matters have not occurred".

N/A.

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

Section 174(2)(c) says "that those matters (if they occurred) do not constitute a breach of planning control".

AS THE RAISED PLATFORM IS WITHIN THE BOUNDARIES OF MY HOME, ARE CONSTRUCTED TO RUN ALONG THE HEIGHT AND LINE OF MY GROUND FLOOR LEVEL

(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. d ☒

Section 174(2)(d) says "that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning which may be constituted by those matters".

THE PLATFORM WAS ERECTED AROUND JULY/AUGUST 2012

E. GROUNDS AND FACTS (continued)

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

Section 174(2)(e) says "that copies of the enforcement notice were not served as required by section 172".

N/A.

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

Section 174(2)(f) says "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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
Please state how you think the requirement should be varied.

I BELIEVE THE REMOVAL OF THE RAISED PLATFORM IS AN EXCESSIVE MEASURE. I HAVE, AT THE COMPLAINANTS REQUEST AND MY EXPENSE, RAISED THE HEIGHT OF THE FENCE, MOVED THE STEPS TO THE LOWER LEVEL OF THE DECKING TO THE OTHER SIDE OF THE AREA AND PLACED LARGE TREE PLANTERS TO THE SIDE ADJACENT TO NO 36 TO ENSURE NO-ONE CAN DIRECTLY ACCESS THE FENCE
ON THE BASIS THAT THE PLATFORM RUNS IN LINE WITH MY GROUND FLOOR LEVEL DUE TO THE HEIGHT DIFFERENCE OF THE HOUSES TO REMOVE IT IN ITS ENTIRITY WILL NOT AVOID FURTHER COMPLAINT.

(g) That the time given to comply with the notice is too short. g ☒

Section 174(2)(g) says "that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed"
Please state what you consider to be a reasonable compliance period, and why.

IF I AM REQUIRED TO REMOVE THE PLATFORM I WOULD HAVE TO REPLACE IT IMMEDIATELY IN ORDER FOR MY CHILDREN TO HAVE A SAFE PLAYING AREA. I AM NOT CURRENTLY IN A FINANCIAL POSITION TO DO SO BEING AN UNEMPLOYED SINGLE PARENT, ALSO COMING OUT OF A VIOLENT RELATIONSHIP.
I HAVE TAKEN STEPS TO ENSURE THE COMPLAINANTS PRIVICY IS NOT AFFECTED IN ANY WAY AND WILL KINDLY REQUEST THAT PLANNING PERMISSION BE GRANTED.

F. CHOICE OF PROCEDURE

It is important that you read carefully section F of the guidance leaflet before you complete this section.

There are 3 possible procedures:- written representations, hearings and inquiries. You should consider carefully which method suits your circumstances before selecting your preferred option by ticking the box.

1 THE WRITTEN REPRESENTATIONS PROCEDURE
(for an explanation refer to the guidance leaflet)

W [X] *

* **Please answer the questions below.**

a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes [X] No [ ]

b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? If so, please explain below or on a separate sheet. Yes [ ] No [ ]

2 THE HEARING PROCEDURE
(for an explanation refer to the guidance leaflet)

H [ ] ◈

Although you may indicate a preference for a hearing, the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or on a separate sheet why you think a hearing is necessary.

◈ **Please answer the question below.**

a) Is there any further information relevant to the hearing which you need to tell us about? If yes, please explain below. Yes [ ] No [ ]

3 THE INQUIRY PROCEDURE
(for an explanation refer to the guidance leaflet)

I [ ] ▲

Although you may indicate a preference for an inquiry the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or on a separate sheet why you think an inquiry is necessary.

▲ **Please answer the questions below.**

a) How long do you estimate the inquiry will last? (Note: We will take this into consideration, but please bear in mind that our estimate will also be informed by others' advice and our own assessment.) No. of days [ ]

b) How many witnesses do you intend to call? No. of witnesses [ ]

c) Is there any further information relevant to the inquiry which you need to tell us about? If yes, please explain below. Yes [ ] No [ ]

G. FEE FOR THE DEEMED PLANNING APPLICATION

It is important that you read carefully section G of the guidance leaflet before you complete this section.

1 Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice?

Yes [X] No [ ]

If yes, please state:

a) The date of the relevant application. [ ][ ] [ ][ ] [ ][ ][ ][ ]

b) The date of the LPA's decision (if any). [ ][ ] [ ][ ] [ ][ ][ ][ ]

2 Are there any planning reasons why a fee should not be paid for this appeal?

Yes [ ] No [ ]

If yes, please explain below:

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your enforcement notice.

Have you sent the fee to the LPA with their copy of the appeal form?

Yes [ ] No [ ]

H. OTHER APPEALS

See section H of the guidance leaflet.

If you have sent other appeals for this or nearby sites to us and these have not been decided, please give details and our reference numbers.

N/A

I. CHECK SIGN AND DATE

See section I of the guidance leaflet.

Please tick the boxes to confirm that the following actions have been carried out

1 I have completed all parts of the form. [X]

2 I have attached a copy of the enforcement notice **and** plan to this form. [X]

3 I have sent a copy of this form and any documents to the LPA. [X]

Signature ..... Date 25-11-16

Name (in capitals) GILLIAN SHOOTER On behalf of (if applicable) N/A

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 1998. Further information about our Data Protection policy can be found in the guidance leaflet.

J. NOW SEND

See section J of the guidance leaflet

Send THIS form (not a photocopy of it) to us at:

Initial Appeals
Temple Quay House
2 The Square
BRISTOL
BS1 6PN

Helpline: 0303 444 5000

OR

If you wish to deliver by hand:
(make sure you get a receipt)

The Planning Inspectorate
Customer Services Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Send a copy to the LPA

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

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.

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