



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL

**Department of Corporate Resources
Legal and Democratic Services**

Property Commercial & Development
Law Team
Room 301, 3rd Floor
City Hall
Bradford
West Yorkshire
BD1 1JY
DX11758 BRADFORD -1

BY RECORDED DELIVERY

Head of Estate
Department for Transport
Group Property
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: [REDACTED]
Fax: (01274) 432116
My Ref: CORP/PCD/MW/406067
Your Ref:
E-Mail: [REDACTED] k
Contact: Marcus Woody

City Solicitor: Parveen Akhtar

Date: 25 October 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 171C
LAND AT SHAFT NUMBER 2, QUEENSBURY TUNNEL, QUEENSBURY, BRADFORD**

I enclose a Notice under Section 171C of the Town and Country Planning Act 1990 in respect of the above property and draw your attention to the penalty for non-compliance with the Notice or for knowingly making any misstatements in giving the required particulars.

Please complete the reply form and return it to me in the stamped addressed envelope provided within 21 days of receipt of the above Notice.

Should you require any assistance in this matter, please do not hesitate to contact either myself on the above telephone number or my instructing officer Chris Eaton on [REDACTED]
[REDACTED]

Yours faithfully

Marcus Woody
Legal Officer
Property Development and Commercial Law Team

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IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY
PLANNING CONTRAVENTION NOTICE
CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the
PLANNING AND COMPENSATION ACT 1991)

To: Head of Estate, Group Property, Corporate Finance, Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

- 1. It appears to City of Bradford Metropolitan District Council ("the Council"), being the local planning authority for the purposes of Section 171C of the Town and Country Planning Act 1990 ("the Act"), that there may have been a breach of planning control in respect of the land described in Schedule 1 below ("the land").**
- 2. The breach of planning control which may have occurred is specified in Schedule 2 below.**
- 3. This notice is served on you as a person who -**
 - (1) is the owner or occupier of the land or has any interest in it; or**
 - (2) is carrying out operations in, on, over or under the land or is using it for any purpose.**
- 4. In exercise of their powers under Section 171C(2) and (3) of the Act the Council require you, so far as you are able, to give them the following information in writing within twenty-one days, beginning with the day on which this notice is served on you:**
 - A. Full details of the operations currently being undertaken on the land.**
 - B. Copies of all engineering and environmental consultants' reports concerning the operations being undertaken.**
 - C. Copies of all assessments of flood risk relating to the operations being undertaken.**
 - D. Copies of all legal advice received in relation to the works being undertaken including the counsel's advice referred to in the attached letters from the Department for Transport dated 21 October 2019 and from Hollingworth Bissell dated 25 October 2019.**
 - E. Your undertaking that no further operations will be carried out until the Council has considered the above information.**
- 5. If you wish to make -**

- (a) an offer to apply for planning permission, or to refrain from carrying out any operations or activities, or to undertake remedial works; or
- (b) any representations about this notice,

Please contact my instructing officer Chris Eaton on telephone number [REDACTED] [REDACTED] to arrange a mutually convenient appointment to discuss any such offer or representation.

Dated 25th October 2019

Signed.....


City Solicitor
Legal and Democratic Services
City of Bradford Metropolitan District Council
City Hall
Bradford
BD1 1HY

SCHEDULE 1

Land to which this notice relates

Shaft Number 2, Queensbury Tunnel, Queensbury, Bradford, West Yorkshire.

SCHEDULE 2

The breach of Planning Control which may have occurred

Unauthorised infilling works at Shaft Number 2, Queensbury Tunnel.

WARNING

1. It is an offence to fail, without reasonable excuse, to comply with any requirement of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is a fine of £1,000. Continuing failure to comply following a conviction will constitute a further offence.
2. It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in a material particular. The maximum penalty on conviction of this offence is an unlimited fine.

ADDITIONAL INFORMATION

3. If you fail to respond to this notice, the Council may take further action in respect of the suspected breach of planning control. In particular, they may issue an enforcement notice, under Section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.
4. If the Council serve a stop notice, under Section 183 of the 1990 Act, Section 186(5)(b) of the Act provides that should you otherwise become entitled (under Section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable in respect of any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.



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Department for Transport
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Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: [REDACTED]
Fax: (01274) 432116
My Ref: CORP/PCD/CEB
Your Ref: FAO MARK MATTHEWS
E-Mail: [REDACTED]
Contact: Mrs C Barrott

City Solicitor: Parveen Akhtar

Date: 22 October 2019

Dear Sir,

QUEENSBURY TUNNEL - EMERGENCY WORKS - SHAFT No 2

I refer to your letter dated 21st October 2019 addressed to the Chief Executive advising that emergency works to infill Shaft No 2 at the above location have started on 21st October 2019.

It is interesting to note that you have put forward two options under which you consider the works can be undertaken. Firstly you state that you do not consider that the works constitute development as defined by s55 of the Town and Country Planning Act 1990 and benefit from the exemptions in s55(2). The Council would not agree with this interpretation. However you further state that should the Council not agree with your interpretation of s55(2) you have received legal advice that the works can be carried out as permitted development under the provision of Part 19 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO)

The Council does not doubt that it could be readily argued that works could fall within the necessary categories within Part 19 Class Q but the important issue is whether or not the correct legal process has been followed to ensure that the PD rights relied upon can properly be used.

The wider works which form the basis of the current planning application include Shaft 2 and have been determined to be EIA development and an Environmental Statement has been submitted with that application. The Council is of the opinion that the works now being undertaken as emergency works to Shaft No 2 could also be considered as EIA development by the I-PA for similar reasons.

I am sure you will be aware that engagement with the EIA procedure removes permitted development rights unless they fall within one of the listed exemptions within Article 3 (10) to (12) of the GPDO. Unfortunately, Part 19 Class Q is not one of the listed exemptions in Article 3 and therefore a specific exemption from the Secretary of State (DCLG) under the provisions of Article 63 of the 2017 EIA Regulations is required and as far as I am aware this has not been provided.

Whilst it is noted that reference is made in your letter to the Secretary of State being unable to "allow a situation to subsist whereby the safety of the public or contractors are being placed at risk, and therefore has agreed to the undertaking of urgent works to prevent a collapse of Shaft No 2" and is of the view the "infilling works to Shaft No 2 must commence without delay in order to preserve public safety" the Council believes this reference is attributable only to the Secretary of State for Transport.

The Council is therefore of the opinion that due legal process has not been followed as the Council need to be in receipt of a specific exemption from the Secretary of State (DCLG) under the provision of Article 63 to give these works the permitted development status on which you seek to rely. If such an exemption has already been sought then it should be served on the Council without delay. However, if no such exemption is yet in force then all works on site should cease and the site should be made safe until either such and exemption is granted and served in accordance with the procedure or a formal application for planning permission is granted.

Please be aware that should the works on site continue without the necessary exemption in place the Council will have no option other to consider legal action by way of injunction to stop them.

Yours faithfully

A black rectangular redaction box covering the signature of C E Barrott.

C E Barrott
Lawyer/Senior Lawyer

Property Commercial and Development Law Team

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