

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: The Borough Council of Gateshead

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider it expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land south of A1 Asphalt and Tarmacadam Surfacing, Portobello Road Birtley Chester Le Street County Durham shown edged red on plan "A" annexed hereto.

3. **THE BREACH OF PLANNING CONTROL**

Without planning permission the erection of palisade fencing around the perimeter of the site shown edged blue on plan "B" annexed hereto, the construction of hardstanding area, erection of signage and the installation of a storage container.

4. **REASONS FOR THIS NOTICE**

It appears to the Council that the breach of planning control has occurred within the last four years.

The breach is contrary to Policies E3, E14, E16, T6 and R14 of the Unitary Development Plan.

Policies E14, E16 and R14 are particularly relevant and the site is allocated as "Urban Green Space" in the Unitary Development Plan.

The scale of the development is not compatible with the established character of the area and is contrary to policy E3 of the Unitary Development Plan for Gateshead which states:-

The design, density and scale of a new development should be compatible with the established character and identity of its proposed locality. All

development will be expected to recognise established design principles with regard to such factors as scale, bulk, height, density, views and vistas. The relationship between buildings and the spaces around and between them must be handled in a sensitive manner.

- a) Having regard to the nature of the site and its relationship to residential properties it is considered that the development is detrimental to the residential amenities of adjacent residents.

E14 Urban green space, and particularly the important major areas, will where appropriate be safeguarded, improved and increased. Areas where green space does not exist and is unlikely to be created will also be improved through landscaping. Improvements will be achieved mainly by enhancing tree cover and priority will be given to the older inner areas and in particular:

- a) large areas of older terraced housing, industrial areas and shopping centres;
- b) major areas of urban green space; and
- c) greenspace which provides an opportunity to establish green corridors, create habitats for wildlife and strengthen and improve wildlife corridors.

E16 A programme of improvements to major transport corridors will be implemented through landscaping, reclamation and other environmental improvements and by the relocation of adjoining activities which present an unattractive image, where appropriate and feasible.

R14 Development proposals for employment uses on sites of all sizes not allocated in the Plan for such uses will be considered on their merits in the context of the need to:

- a) achieve a full range of sites;
- b) protect and provide open space within the urban area;
- c) protect the countryside; and
- d) ensure they do not have detrimental effects on neighbouring residential or employment areas.

T6 The following measures will be implemented to secure the safer use of the highway network:

- a) giving priority to safety in the design of roads, traffic management and regulation;

- b) making safe provision for pedestrians, cyclists and people with disabilities, including the segregation of pedestrians and cyclists from vehicles wherever possible;
- c) promoting road safety;
- d) resisting development proposals which make inadequate provision for access and parking and are therefore likely to be prejudicial to road safety; and
- e) resisting proposals for advertisements which are likely to be prejudicial to road safety.

A retrospective planning application, reference No. DC/04/00655/COU for the change of use was refused on 13th July 2004 on the following grounds:

1. The development is within an area of Urban Green Space the loss of open space which is considered to be harmful to the character and visual amenity of the area contrary to Policy E3, E14 and R14 of the Unitary Development Plan.
2. The proposal by virtue of its prominent visual appearance and loss of open space would be detrimental to the appearance of the major transport corridor in which it is sited and thereby contrary to Policy E16 of the Unitary Development Plan for Gateshead.
3. By reason of a lack of a visibility splay it is considered that the proposal would be seriously prejudicial to the safety of users of Portobello Road and therefore contrary to Policy T6 of the Gateshead Unitary Development Plan.

The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- i. Remove the Pallsade frencing.
- ii. Remove from the land all hardstandings.
- iii. Remove all signage associated with the site.
- iv. Remove the Storage Container.
- v. Remove from the land all materials and rubble arising from the compliance with the above and restore the land to its condition before the breach took place, by levelling the ground with topsoil and re-seeding it with grass.

6. TIME FOR COMPLIANCE

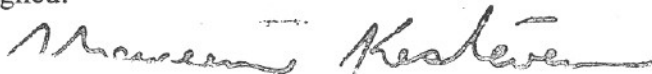
- (i) Four calendar months after this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 3 November 2004, unless an appeal is made against it beforehand.

Dated: 29th September 2004

Signed:

A handwritten signature in black ink, appearing to read 'Maureen Kesteven', written in a cursive style.

Maureen Kesteven
Solicitor to the Council

For and on behalf of the Borough Council of Gateshead.

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received** by the Secretary of State **before** the date specified in paragraph 7 of the notice. The enclosed booklet "Enforcement Notice Appeals – A Guide to Procedure" sets out your rights. Please read it carefully. You may use the enclosed appeal forms.

- One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.
- The second copy of the appeal form and notice should be sent to the Council.
- The third copy is for your own records.

FEES

Upon lodging an appeal there is deemed to be an application for planning permission, whether or not reliance is placed upon the ground set out under Section 174(2)(a) of the 1990 Act. A fee, equal to twice that which would have been payable if a planning application were made for the development specified in the enforcement notice, is payable to have this ground considered.

No fee is payable if;

- you have already made an application for planning permission, accompanied by the appropriate fee, for the development specified in the enforcement notice, that was undetermined at the time the notice was served, or,
- you have already lodged an appeal with the Secretary of State against the Council's refusal to grant planning permission for the development specified in the enforcement notice that was undetermined at the time the notice was served.

The fee in this case would be £220.00, half of which should be paid to the Planning Inspectorate (made payable to the Office of the Deputy Prime Minister) and the other half to the Council (made payable to Gateshead Council).

If a fee is due, and you do not pay it within the period specified by the Secretary of State, the deemed application will not be considered by the Planning Inspector.

WHAT HAPPENS IF YOU DO NOT APPEAL

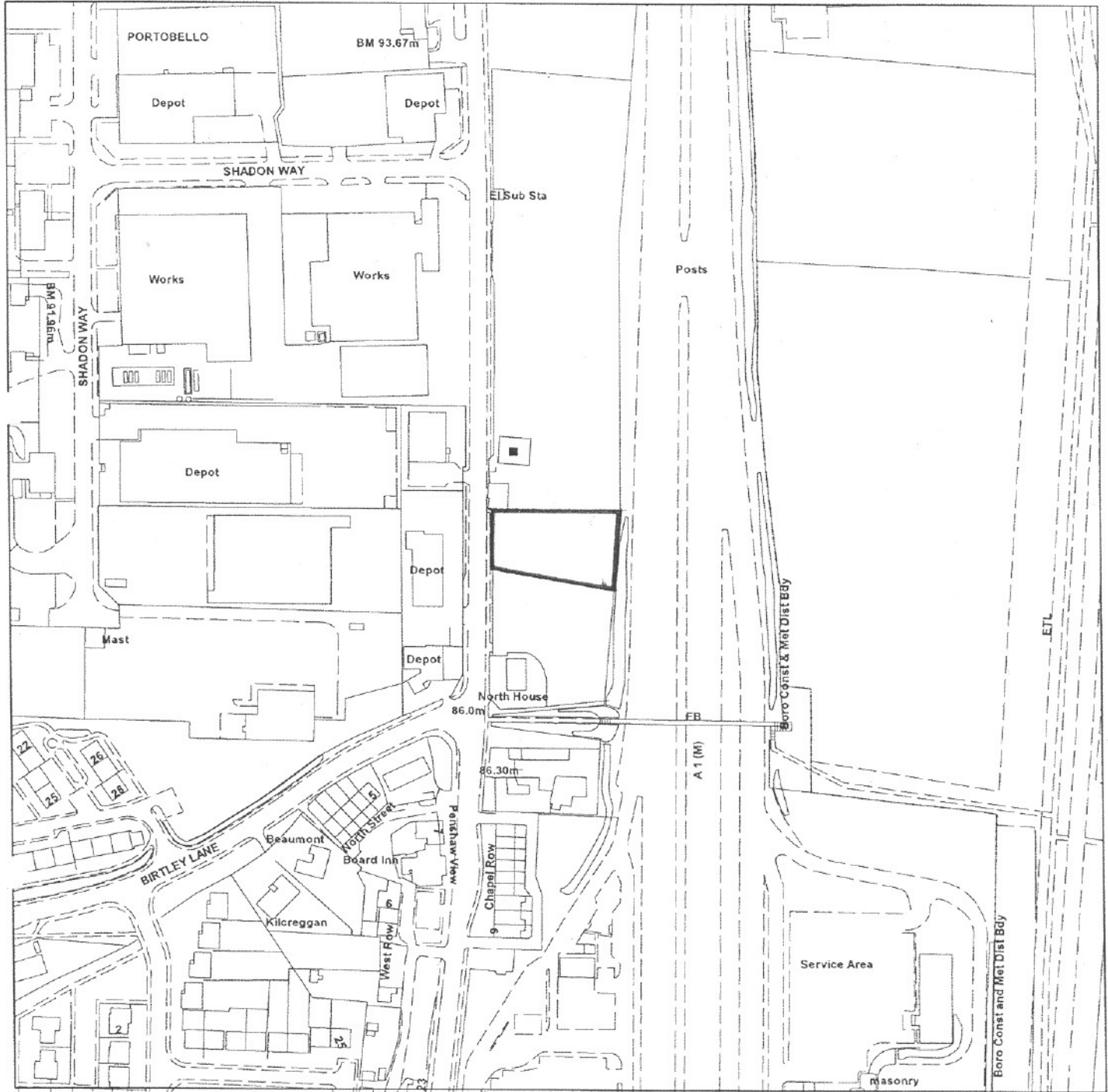
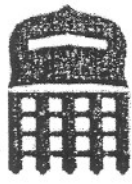
If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice, which has taken effect, can result in prosecution and / or remedial action by the Council.

PERSONS ON WHOM THIS NOTICE HAS BEEN SERVED

Mr Garry Walker
Torvaig
Front Street
Pelton Fell
DH2 2RW

Mr Joseph Walker
Mount lodge,
Mount Lane,
Springwell
Gateshead,
Tyne and Wear

The Company Secretary
Seagraves (Contractors) Limited
Checkerleazes Farm,
Copeland Road,
West Auckland,
County Durham
DL14 9NQ



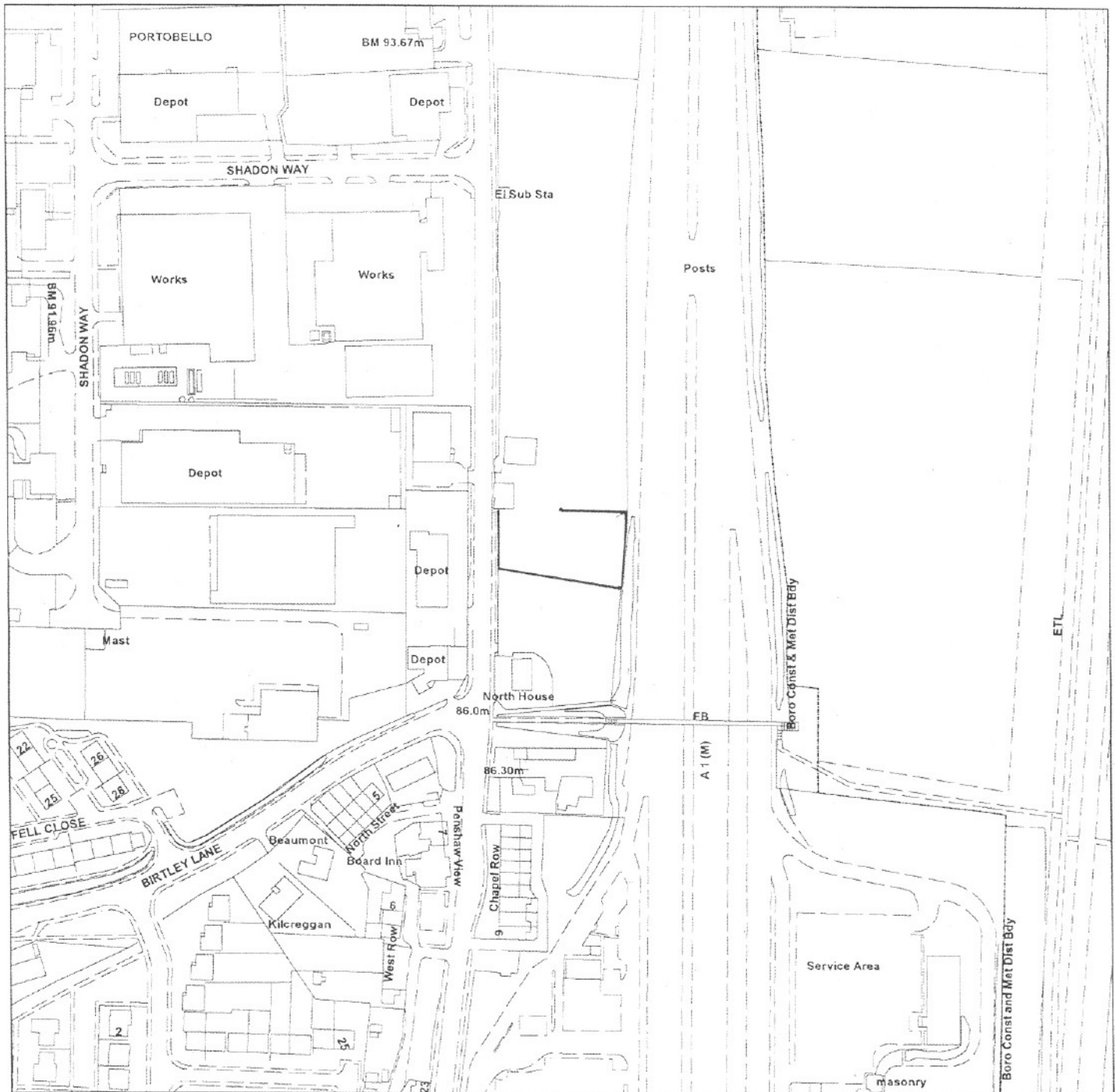
Scale : 1:2500

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Organisation	Gateshead Council
Department	Development Control
Comments	Plan "A"
Date	09 September 2004
SLA Number	GC 100019132 2004



Scale : 1:2500

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Organisation	Gateshead Council
Department	Development Control
Comments	Plan "B"
Date	09 September 2004
SLA Number	GC 100019132 2004