

# **Kettering** *Borough Council*

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## **Planning enforcement action taken at Birchfield Springs**

Kettering Borough Council have taken planning enforcement action against Lyndon Thomas (Ltd), to stop ongoing breaches of planning control at the Birchfield Springs site in Desborough.

The Council served an enforcement notice on the site on 1 May 2020, seeking that all breaches of planning control cease after the land has been used and developed not in accordance with the planning permission originally granted for trout fishing lakes.

A longstanding investigation, which has seen the Council working with partner agencies, has previously brought about a Community Protection Notice in 2018 and further conditions imposed by the courts in 2019. This followed complaints from residents about mud on the road and noise disturbance from heavy trucks and plant moving through Desborough through the night and over weekends.

To date, the landowner has submitted various legal disputes to the allegations, which have delayed this enforcement action, however the Council are counteracting these disputes at each turn. Currently, the landowner has appealed the enforcement notice to the Secretary of State. The Council are fully resisting this appeal with expert evidence and the benefit of specialist planning Counsel. This appeal will be determined by way of a public inquiry, the dates for which have not been set. However, owing to the pandemic, appeals to the Secretary of State are significantly delayed.

The landowner has also made a claim for judicial review of the Council's decision to issue the enforcement notice to the High Court at a date which has not been set. The Council will resist this claim and seek its costs for doing so from the landowner. Thus, the Council are seeking to curtail these breaches of planning control as best as it can.

### **Notes to Editors**

Alongside the Planning Enforcement an Abatement Notice was served by the Council's Environmental Protection Team on 3rd October 2019, and following the last appearance at court, a number of breaches of the abatement notice have been

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witnessed. A date in court was set for early July 2020, which was cancelled due to the Covid-19 pandemic with a new date yet to be confirmed.

In addition to the Council's enforcement action investigations are also ongoing from the Environment Agency (EA) and the Driver and Vehicle Standards Agency (DVSA).

The Environment Agency prosecution for breaches of the waste permit at Birchfield Springs is currently awaiting trial at Northampton Crown Court, listed in early 2021. Due to the ongoing activities at the site, these investigations are continuing and the EA are working closely with the Local Planning Authority. Any waste incident reports from members of the public should be directed to their incident hotline 0800 807060 so that they can respond accordingly and continue to gather evidence.