

Kelvin Williams
Head of Planning and Environmental Services

Dear Sirs,

Hastings Borough Council Act 1988 • Retaining Walls

As set out below, I shall require full engineering details.

Attention is drawn to the following section of the above Act regarding retaining walls.

This section provides as follows:-

5 (1) in this section "retaining wall" means a wall which:-

- (a) Serves or is intended to serve as a support for earth or other material on one side only so that the top level of that earth or material is at any point not less than 1.5 metres above the level of the ground adjoining the other side; and
 - (b) Does not form part of a permanent building or the revetment of a trench.
- (2) After the commencement of this Act no retaining wall shall be erected otherwise than in accordance with plans, sections and specifications approved by the Borough Council and if any person erects such a wall in contravention of this sub-section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Any person aggrieved by the refusal of the Borough Council to approve any plans, sections and specifications submitted to them in pursuance of sub-section (2) above may appeal to the Secretary of State.
- (4) If any retaining wall:-
- (a) Is in such disrepair as to be dangerous; or
 - (b) Being a wall erected before the passing of this Act or erected in contravention of sub-section (2) above, is so constructed as to be dangerous; the Borough Council may by notice to the owner or occupier require him to execute such work as may be necessary to obviate the danger and the provisions of Sections 290 and 291 of the Public Health Act 1936 with respect to appeals against and the enforcement of notices requiring the execution of works and the recovery of expenses shall apply in relation to such a notice as they apply in relation to the notices mentioned in sub-section (1) of the said Section 290.

- (5) (a) In proceedings for an offence under sub-section (2) above it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (b) If in any case the defence provided by paragraph (a) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting the identification of that other person.
- (6) The provisions of this section shall not apply to:-
- (a) Any length of retaining wall to which Section 167 of the Highways Act 1980 (retaining walls near streets) applies or for the maintenance of which the Highway Authority are responsible;
- (b) A retaining wall erected on land belonging to any transport undertakers within the meaning given in Section 331 of the said Act 1980, so long as that land is used by those undertakers primarily for the purpose of their railway, dock, canal or inland navigation undertaking;
- (c) A retaining wall on operational land.
- (7) Nothing in this section affects any requirement to obtain approval or any other obligation imposed by or by virtue of, any other enactment.
- (8) For the purposes of the sub-section (6) (c) above "operational land" shall be construed in accordance with Section 222 of the Town and Country Planning Act 1971 and as though a telecommunications operator were a statutory undertaker.

The top level of earth mentioned in 5 (1) (a) above is deemed to include the top level of any bank or batter surcharging the wall.

Enclosed are forms which have been prepared to assist persons to give notice of their intention to erect a retaining wall and to accompany the required plans, sections, specifications and calculations, see sub-section (2). The calculations should be accompanied by a soils report which should be particularly related to the structures in question and include such items as slip circle analysis where applicable.

Continued/....

Also enclosed for your guidance, is a summary of my requirements for the design of retaining structures.

In certain circumstances, the erection of a retaining wall will require planning consent and you are, therefore, advised to contact the Development Control Section of Hastings Borough Council.

You are advised that there is legislation relating to the disturbance of badgers caused by nearby construction works and therefore you should contact the Borough Ecologist Tel: 01424 781107, who will assist you.

Yours faithfully

Mark Gray

Mark Gray
Building Control Partnership Manager

HASTINGS BOROUGH COUNCIL ACT 1988

SECTION 5

RETAINING WALLS

To: East Sussex Building Control Partnership

1/We hereby apply under Section 5 of the Hastings Borough Council Act 1988 for approval of the accompanying plans, sections and specifications for proposed retaining wall(s) at the address or location stated below.

1 Address or location of proposed retaining wall(s):

2 Brief description of proposed retaining walls:

3 Height of retaining wall(s):

Signed: _____ Date: _____

Name of person or persons whos behalf the works are carried out:

Address of person or persons whos behalf the works are carried out:

Contact Number: _____

(If signed by agent) Agents Name: _____

(If signed by agent) Agents Profession: _____

(If signed by agent) Agents Address: _____

Contact Number: _____

- NOTE:** 1 This application form should be accompanied by plans, sections and specifications of the proposed retaining wall(s).
- 2 This application form is for use in respect of the retaining walls which are intended to serve as a support for earth or other material on one side only so that the top level of that earth or material is at any point not less than 1.5 metres (4ft 11ins) above the level of the ground adjoining the other side; and do not form part of a permanent building or the revetment of a trench.