



WOKINGHAM BOROUGH COUNCIL

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE Material Change of Use

ISSUED BY: WOKINGHAM BOROUGH COUNCIL ("the Council")

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

2. THE LAND AFFECTED

The Vale, Forest Road, Binfield RG40 5QY ('the Land') shown edged in red on the attached plan

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the material change of use of the Land to a mixed use of residential; and a vehicle storage, sales and maintenance business.

4. REASONS FOR ISSUING THIS NOTICE

1. It appears to the Council that the material change of use of Land has occurred within the last ten years.
2. Planning permission 212640 was refused for the proposed development and planning conditions cannot overcome the concerns relating to the inappropriate use within the countryside.
3. The Land is located in the countryside and the unauthorised development outside of the settlement boundary results in a form of development which has a harmful urbanising impact that is detrimental to the intrinsic character and appearance of the countryside and thus harmful to the visual amenity of the area. The unauthorised development is therefore contrary to the National Planning Policy Framework ("NPPF"), Policies CP1, CP3 and CP11 of the adopted Wokingham Borough Core Strategy (2010) ("Core Strategy") and Policy CC02 of the adopted Wokingham Borough Managing Development Delivery Local Plan (2014) ("MDD").

4. The unauthorised use and its associated development are incongruous features within the countryside setting and are harmful to the undeveloped character and amenity of the area. This constitutes an inappropriate and unsustainable form of development in an unsustainable location and introduces new commercial building and associated hardstanding in a rural location outside any defined settlement boundary which fails to maintain the quality of the environment and is detrimental to the character and appearance of the countryside. This is contrary to policies CP1, CP3 and CP11 of the Core Strategy, policies CC01, CC02 of the MDD and the NPPF.
5. The introduction of a commercial use in this rural location, for which there is no justification, has a harmful urbanising effect in this countryside location. The encroachment away from the original buildings and large expanse of hardstanding, outdoor vehicle storage and parking represents inappropriate development in the countryside. This is contrary to the National Planning Policy Framework 2019, Policies CP1, CP3 and CP11 of the Core Strategy, policies CC02, CC03 and TB21 of the MDD.
6. By virtue of the increase of people and cars through additional comings and goings, the mixed use of the site results in additional noise and activity which has a detrimental impact on the residential amenities of the neighbouring properties. This is contrary to policy CC06 of the MDD and policies CP1(8) and CP3(a) of the Core Strategy.
7. To remedy the breach of planning control.

5. WHAT YOU ARE REQUIRED TO DO

- i) Cease the unauthorised mixed use of “the Land” for residential purposes and vehicle storage, sales and maintenance.
- ii) Remove all vehicles and equipment and residential paraphernalia associated with the unauthorised use from “the Land”.
- iii) Demolish the building shown in the approximate position outlined in blue on the attached plan.
- iv) Excavate the foundation of the building referred to in iii above.
- v) Break up the hardstanding shown shaded in pink on the attached plan and return the land its former condition prior to the breach by re-seeding using grass seed at 50 grammes per square metre.
- vi) Remove the fence, posts and gate shown by the green line from between points ‘A’ and ‘B’ on the attached plan.
- vii) Break up the hardstanding shaded in yellow and return the land its former condition prior to the breach by re-seeding using grass seed at 50 grammes per square metre.
- viii) Permanently remove all resultant materials associated with steps (iii), (iv), (v), (vi) and (vii) from “the Land”.

6. TIME FOR COMPLIANCE

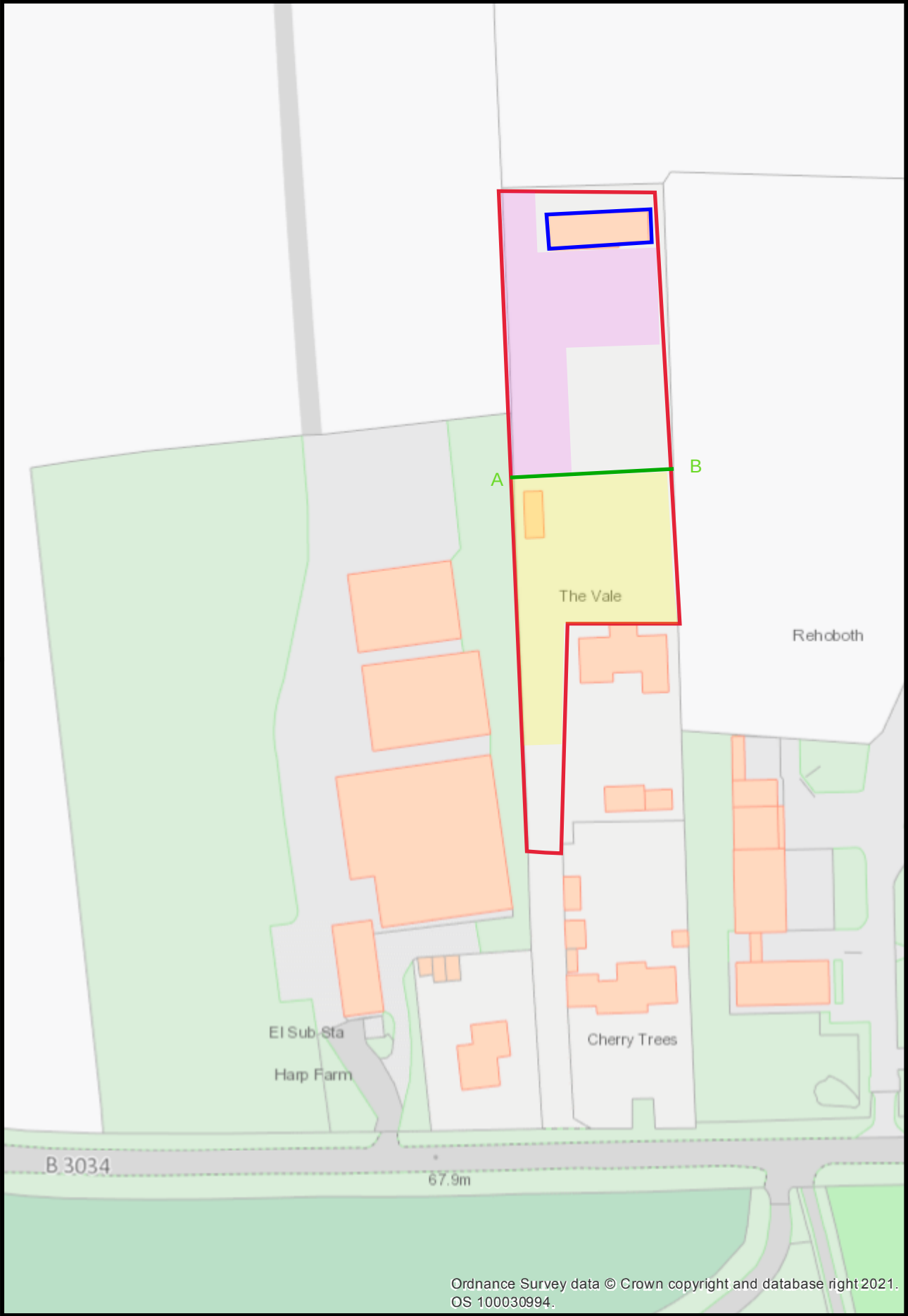
Three months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 18 March 2022 unless an appeal is made against it beforehand.

Signed:  Dated:.....7 February
2022.....

Mrs Marcia Head
Service Manager
Place Based Services
Wokingham Borough Council
PO Box 157
Civic Offices
Shute End
Wokingham RG40 1WR



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OS 100030994.



EXPLANATORY NOTE

WOKINGHAM BOROUGH COUNCIL has issued an enforcement notice relating to The Vale, Forest Road, Binfield RG40 5QY and you are served with a copy of this notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of the Explanatory Note.

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. 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. **Please see the sheet from The Planning Inspectorate at the end of this document headed 'THIS IS IMPORTANT' which tells you how to make an appeal.**

The Planning Inspectorate produce a booklet entitled "Making your Appeal" which sets out your rights and the procedure to be followed. You can obtain this booklet either from Planning Inspectorate or from their Customer Support Unit by phoning 0117 3726372. The grounds on which an appeal may be made are set out in section 174 of the Town & Country Planning Act 1990. You will find an explanation of the grounds in the "Making your Appeal" booklet.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds (not all of these grounds may be relevant to you)

- (a) 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;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) 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;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

FEE PAYABLE FOR THE DEEMED APPLICATION

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £924.00. You should pay this fee to the Local Planning Authority.

Joint appellants need only pay one fee.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against the Enforcement Notice, the Notice will take effect on the date specified in paragraph 7 indicated above and you must then ensure that the required steps for complying with it, and 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 that has taken effect is a criminal offence and can result in legal proceedings and or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

In accordance with the legislation, this Enforcement Notice has been served on the following individuals/organisations:

Name & Address of Persons Served	Method
The Owner/Occupier The Vale, Forest Road Binfield RG40 5QY	By Hand
David John Drew The Vale, Forest Road Binfield RG40 5QY	By Hand
Lynne Susan Drew The Vale, Forest Road	By Hand

Binfield RG40 5QY	
David John Drew Cherry Trees, Forest Road, Wokingham RG40 5QY	By Hand
Lynne Susan Drew Cherry Trees, Forest Road, Wokingham RG40 5QY	By Hand

The legislative provisions for enforcement notices and appeals

The powers of local planning authorities to issue enforcement notices, expressions used in the enforcement of planning control and the right of appeal to the Secretary of State against enforcement notices are in sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991. These provisions are stated in full below.

Section 171A.

(1) For the purposes of this Act -

- a. carrying out development without the required planning permission; or
- b. failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

(2) For the purposes of this Act -

- a. the issue of an enforcement notice (defined in section 172); or
- b. the service of a breach of condition notice (defined in section 187A), constitutes taking enforcement action.

(3) In this Part "planning permission" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

Section 171B.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

- (4) The preceding subsections do not prevent -
- a. the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - b. taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority has taken or purported to take enforcement action in respect of that breach.

Section 172.

- (1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them -
- a. that there has been a breach of planning control, and
 - b. that it is expedient to issue the notice, having regard to the provisions of the development plan to any other materials considerations.
- (2) A copy of an enforcement notice shall be served -
- a. on the owner and on the occupier of the land to which it relates: and
 - b. on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place -
- a. not more than twenty-eight days after its date of issue; and
 - b. not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 173.

- (1) An enforcement notice shall state -
- a. the matters which appear to the local planning authority to constitute the breach of planning control; and
 - b. the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.
- (3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.
- (4) Those purposes are -
- a. remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its conditions before the breach took place; or
 - b. remedying any injury or amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require -
- a. the alteration or removal of any buildings or works;
 - b. the carrying out of any building or other operations;
 - c. any activity on the land not to be carried on except to the extent specified in the notice: or
 - d. the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement

building") which, subject to a subsection (7), is as similar as possible to the demolished building.

(7) A replacement building -

- a. must comply with any requirement imposed by any enactment applicable to the construction of buildings;
- b. may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
- c. must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (1) and (2)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where -

- a. an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
- b. all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where -

- a. an enforcement notice requires the construction of a replacement building; and
 - b. all the requirements of the notice with respect to that construction have been complied with,
- planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A.

(1) The local planning authority may -

- a. withdraw an enforcement notice issued by them; or
- b. waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who

has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the powers of the local planning authority to issue a further enforcement notice.

Section 174.

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds -

a. 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;

b. that those matters have not occurred;

c. that those matters (if they occurred) do not constitute a breach of planning control;

d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

e. that copies of the enforcement notice were not served as required by section 172;

f. 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 constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

g. that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made either -

a. by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

b. by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing -

a. specifying the grounds on which he is appealing against the enforcement notice; and

b. giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "relevant occupier" means a person who -

a. on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and

b. continues so to occupy the land when the appeal is brought.

Section 175.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may -

- a. require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- b. specify the matters to be included in such a statement;
- c. require the authority or the appellant to give such notice of such an appeal as may be prescribed;
- d. require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Where an appeal is brought under section 174 the enforcement notice shall subject to any order under section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

Section 176.

(1) On an appeal under section 174 the Secretary of State may -

- a. correct any defect, error or misdescription in the enforcement notice; or
- b. vary the terms of the enforcement notice, if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.

(3) The Secretary of State -

- a. may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

b. may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Section 177.

(1) On the determination of an appeal under section 174, the Secretary of State may -

- a. grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;
- b. discharge any condition or limitation subject to which planning permission was granted;
- c. determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if -

- a. any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
- b. references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it related to the form of the certificate), (6) and (7) and 194.

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where -

a. the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
 b. any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
 c. the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,
 then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.



Temple Quay
 Bristol BS1 6PN

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

☐ on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
☐ by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

☐ the name of the local planning authority;
☐ the site address;

- ☐ your address; and
- ☐ the effective date of the enforcement notice.

We **MUST** receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.