

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")**

BREACH OF CONDITIONS ENFORCEMENT NOTICE Material Change of Use and Operational Development

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)(b) 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 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**

"Donna's Paddock", Land opposite 136 - 144 Wargrave Road, Twyford, Wokingham RG10 9PN ("The Land") shown edged by a red line on the attached plan.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Use of land for the stationing of a mobile home for residential purposes (one Gypsy and Traveller Pitch) without compliance with conditions 1, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13 of planning permission 202499 allowed on appeal (reference APP/X0360/W/21/3288874) dated 17 October 2022:

Condition 1 - The use hereby permitted shall be carried on only by Mr Roger Baxter and Mrs Bella Baxter and their resident dependants and shall be for a limited period being the period of five years from the date of this decision.

This condition has not been complied with, as Mr Joe Sheridan, Mrs Amy Sheridan and their resident dependants reside at the site as opposed to those named within condition 1.

Condition 3 - When the site ceases to be occupied by those named in Condition 1 above, or at the end of five years, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto the land, and works undertaken to it in connection with the use, shall be removed and the land restored in accordance with a scheme to be approved by the Local Planning Authority.

This condition has not been complied with, as notwithstanding Mr Roger Baxter, Mrs Bella Baxter and their resident dependents not residing on site, it remains in situ and occupied by Mr Joe Sheridan, Mrs Amy Sheridan and their resident dependents.

Condition 4 - The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Ref 01654/10 Rev 2, dated 24.06.20 Proposed Site Layout & Landscape Scheme, Ref TDA.2647.02, dated December 2021 Proposed Day Room, Ref TDA.2647.03, dated December 2021.

This condition has not been complied with, as the site layout does not reflect the layout set out in the plans above and a materially different layout is present on site.

Condition 6 - Prior to the commencement of the development hereby permitted, details of a hard and soft landscaping scheme including a timetable for implementation and management plan shall be submitted to and approved in writing by the Local Planning Authority. The planting scheme shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, and any existing trees or shrubs to be retained. Planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation of any of the Gypsy and Traveller pitches. Any trees or plants which, within a period of 5 years from the date of the planting (or within a period of 5 years of the occupation of the pitches in the case of retained trees and shrubs) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The development shall be carried out in accordance with the approved details.

This condition has not been complied with, as the landscaping on site significantly deviates from the approved plan 'Proposed Site Layout and Proposed Landscape Scheme Drawing ref. TDS2647.04' and the site is currently occupied.

Condition 7 - Prior to the commencement of the development hereby permitted, a scheme of arboricultural protection measures as outlined in the Arboricultural Implications Assessment and Method Statement (Indigo Surveys, Sept 2022), and supervision thereof, shall be submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the scheme of protection measures with the relevant supervision as approved.

This condition has not been complied with, as arboricultural protection measures have not been delivered in accordance with approved document 'Arboricultural Assessment and Method Statement – Ref. 220954/AIA/A2' pursuant to conditions application 230519. This is because the site layout is materially different to the details approved under application 230519.

Condition 8 - Prior to the commencement of the development hereby permitted, details of surface and foul water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The drainage systems shall be provided in accordance with the approved details prior to the first occupation of the site and shall thereafter be retained as such.

This condition has not been complied with, as despite the development being commenced and occupied, no details of the surface and foul water drainage have been submitted to the Council for approval. In the officer report linked to discharge of conditions application 230519, the officer states "The WBC Drainage officer has said that as there is no information on the surface or foul water drainage, so therefore the condition cannot be discharged."

Condition 9 - Prior to the commencement of development, details of biodiversity net gains and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in accordance with the approved timetable.

This condition has not been complied with, as despite the development being commenced and occupied, no details of biodiversity net gains, nor a timetable for implementation, have been submitted to the Council for approval. In the officer report linked to discharge of conditions application 230519, the officer states: "There has been no information on this condition, so cannot be discharged."

Condition 10 - Prior to the first occupation of the site, details of the acoustic fence as recommended in the Noise Assessment (LF Acoustics Dated February 2021) shall be submitted for written approval to the Local Planning Authority. The acoustic fence will be installed in accordance with the approved details before the site is occupied and will be retained and maintained thereafter.

This condition has not been complied with, as despite the development being occupied, no details of an acoustic fence have been submitted to the Council for approval. A standard close-board fence has been erected on site without planning permission.

Condition 11 - The site shall not be occupied until the vehicle parking spaces have been provided in accordance with the approved plans. The

vehicle parking spaces shall be permanently maintained and shall remain available for the parking of vehicles at all times.

This condition has not been complied with, as the site layout and parking provision on site is materially different to that approved pursuant to condition 4 (approved plans).

Condition 12 - The site shall not be occupied until the vehicular access has been surfaced with a permeable and bonded material across the entire width of the access for a distance of 10 metres measured from the carriageway edge. The access shall thereafter be retained as such.

This condition has not been complied with, as the site's vehicular access has been surfaced with impermeable materials (tarmacadam).

Condition 13 - No commercial activities shall take place on the land, including the storage of materials.

This condition has not been complied with, as commercial paraphernalia has been evidenced on site including but not limited to multiple commercially branded vehicles, material storage, scrap storage and heavy machinery (forklift).

4. REASONS FOR ISSUING THIS NOTICE

- i) It appears to the Council that the above breach of planning control has occurred within the last 10 years.
- ii) The development constitutes inappropriate development within the Green Belt. As the development is in breach of conditions 1 and 3, no very special circumstances to overcome substantial harm to the Green Belt exist. Furthermore, breaches of conditions 4, 6 and 10 result in exacerbated harm to the openness of the Green Belt. The development is therefore contrary to the NPPF (2024), Planning Policy for Traveller Sites (PPTS), Wokingham Core Strategy Policy CP12 and Managing Development Delivery Local Plan Policy TB01.
- iii) The development represents development outside of settlement limits within the designated countryside which is contrary to the spatial objectives of the development plan. It does not fall into any of the exceptional categories, as identified by CP11 of development plan and therefore is unacceptable in principle. As the development is in breach of conditions 1 and 3, no material considerations exist that overcome the conflict with the Development Plan and spatial strategy as a whole. This is contrary to the NPPF (2024), PPTS and policies CP1, CP3, CP9 and CP11 of the Wokingham Core Strategy.
- iv) By reason of poor design, urbanising appearance and landscape

reduction in breach of conditions 4, 6 and 10, the development poses significant adverse harm to the character of the and appearance of the Countryside, Green Belt and Twyford Chalk Lowlands landscape character within this otherwise rural and open environment. The development is therefore contrary to the NPPF (2024), Policies CP1, CP2, CP11 and CP12 of the Wokingham Core Strategy, Managing Development Delivery Local Plan policies CC03, TB10 and TB21 and the Twyford Neighbourhood Plan.

- v) The development is located within the Root Protection Areas of native trees and has resulted in a loss of landscaping features of amenity value on site in breach of conditions 4, 6 and 7. It is therefore contrary to the NPPF (2024), policies CC03 & TB21 of the Managing Development Delivery Local Plan 2014, Wokingham Core Strategy policies CP1 and CP3.
- vi) In the absence of measures to manage surface and foul water drainage, as well as impermeable tarmac surfacing in breach of conditions 8 and 12, it has not been demonstrated that the development has not increased surface water flood risk on site, or elsewhere, nor safeguarded adjoining residents and those residing on site through the correct management of foul sewage. This is contrary to the NPPF (2024), policy CC10 of the Managing Development Delivery Local Plan 2014 and Wokingham Core Strategy policy CP1.
- vii) In the absence of measures of biodiversity net gain in breach of condition 9, it has not been demonstrated that the loss in grassland habitat and hedgerows has been effectively mitigated or compensated for. This is contrary to the NPPF (2024), policy TB23 of the Managing Development Delivery Local Plan 2014.
- viii) In absence of a scheme of acoustic mitigation in breach of condition 10, the development has not accounted for inhabitation by noise sensitive receptors on site (NSRs). Accordingly, the development has failed to demonstrate a high standard of amenity for future occupiers contrary to the NPPF (2024), policy CC06 of the Managing Development Delivery Local Plan 2014 and Wokingham Core Strategy policies CP1, CP2 and CP3.
- ix) The access and parking measures on site have not been delivered in accordance with the approved plans, with a greater provision provided on site in different locations utilising impermeable materials in breach of conditions 11 and 12. This decreases the site's sustainability, undermines the available public/ active transport in the area and creates an over reliance of the private motor vehicle contrary to the NPPF (2024) and policies CP1, CP3 and CP6 of the Wokingham Core

Strategy.

- x) The development contains numerous examples of commercial paraphernalia, including but not limited to commercially branded vehicles (including machinery), building materials and scrap waste in breach of condition 13. A mixed commercial use is not appropriate in this sensitive location, and the paraphernalia harms the character and appearance of the Green Belt, Landscape and Countryside as well as the amenities of occupiers of the site and neighbours. This is contrary to the NPPF (2024) and policies CP1 and CP3 of the Wokingham Core Strategy.
- xi) To remedy the breach of planning control.

5. WHAT YOU ARE REQUIRED TO DO

- i) Cease use of the Land for the siting of caravans for human habitation.
- ii) Remove all caravans from the Land.
- iii) Remove all vehicles associated with the unauthorised use from the Land.
- iv) Excavate the hard surfacing and sub-base beneath the caravan(s).
- v) Disconnect all utilities (eg electric, water, gas, sewage) associated with the unauthorised use and remove all apparatus from the Land.
- vi) Remove from the Land all septic tanks, water tanks and associated pipework.
- vii) Remove all boundary treatments.
- viii) Remove all non-native planting.
- ix) Excavate all hard surfacing and remove it from the Land.
- x) Remove all residential and commercial paraphernalia from the Land.
- xi) Remove from the Land all resultant materials associated with steps (ii) – (x)
- xii) Restore the Land to its former condition prior to the breach of

planning control taking place (i.e grassland).

6. TIME FOR COMPLIANCE

Nine (9) months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **01/08/2025** unless an appeal is made against it beforehand.

Dated: 02.07.25

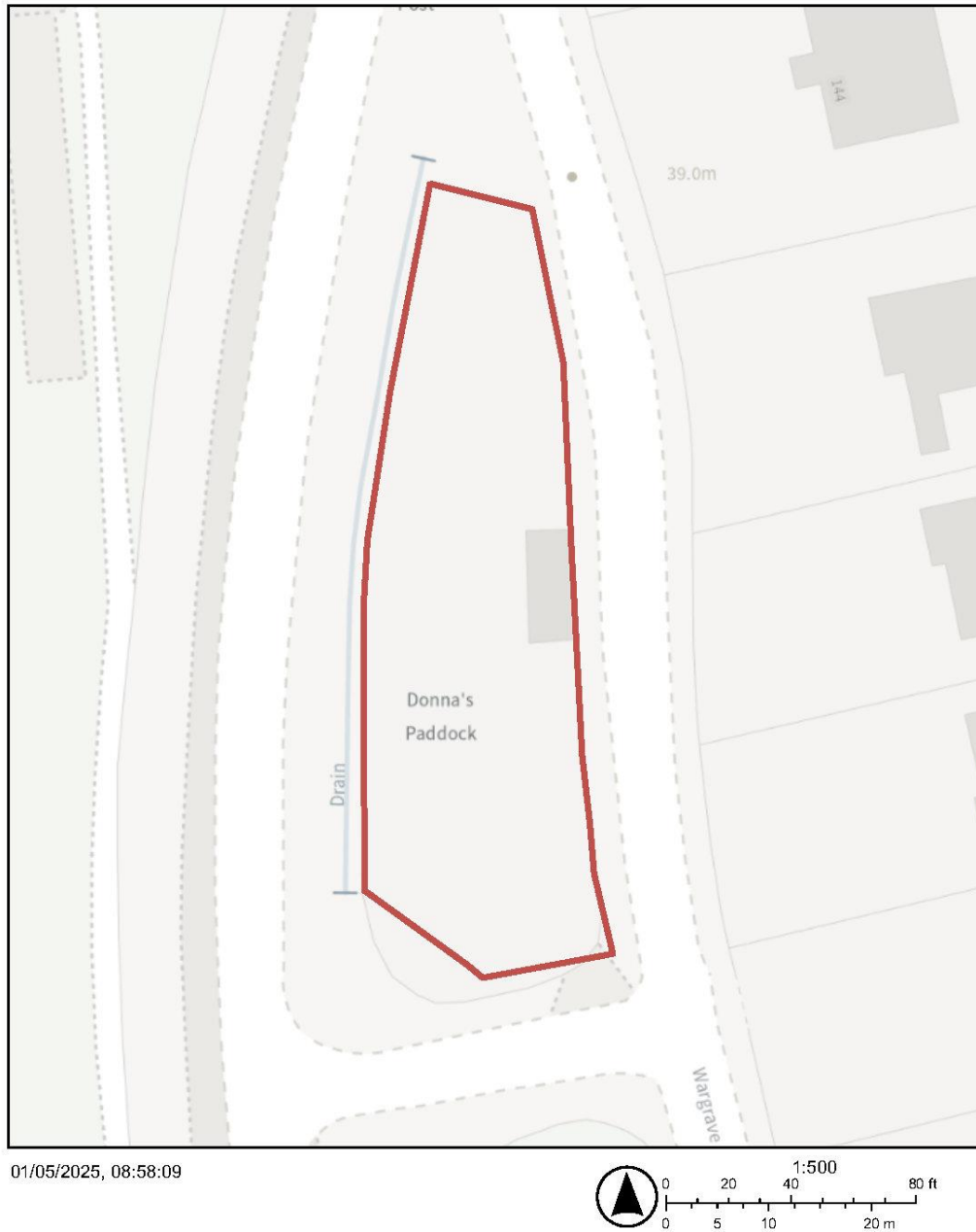
A handwritten signature in black ink, appearing to be 'BL' followed by a horizontal line.

Signed:

Wokingham Borough Council
PO Box 157
Civic Offices
Shute End
Wokingham
RG40 1WR

PLAN

ArcGIS Web Map



Wokingham Internal
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EXPLANATORY NOTE

WOKINGHAM BOROUGH COUNCIL has issued an enforcement notice relating to Land opposite 136 - 144 Wargrave Road, Twyford, Wokingham RG10 9PN. 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 this 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.**

Please refer to The Planning Inspectorate procedural guide [Enforcement appeals: procedural guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/enforcement-appeals-procedural-guide) which sets out your rights and the procedure to be followed or contact The Planning Inspectorate Customer support Team on Direct Line 0303-444 5000. 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 £1156.00. 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
Mr. R Baxter	Served by hand (post box)
Mrs. B Baxter	Served by hand (post box)
Mr. J Sheridan	Served by hand (post box)
Mrs. A Sheridan	Served by hand (post box)

Owner/ Occupier	Served by hand (post box)
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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 -
- (za) the issue of an enforcement warning notice in relation to land in England under section 172ZA.
 - 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 -
- a. in the case of a breach of planning control in England, ten 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 -
- a. in the case of a breach of planning control in England, ten years beginning with the date of the breach..
- (2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within in the meaning of section 196D).
- (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 (a) and (b)).

(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.

(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if

a. the land to which the enforcement notice relates is in England, and

b. the enforcement notice was issued at the time after the making of an application for planning permission that was related to the enforcement notice.

(2AA) For the purposes of subsection (2A)

a. an application for planning permission for the development of any land is related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of matters specified in the enforcement notice as constituting a breach of planning control;

b. an application for planning permission that the local planning authority or the Secretary of State declined to determine under 70A, 70B or 70C is to be ignored.

(2AB) But subsection (2A) does not apply if -

a. the application for planning permission has ceased to be under consideration, and

b. the enforcement notice was issued after the end of the period of two years beginning with the day on which the application ceased to be under consideration.

(2AC) For the purposes of subsection (2AB), an application for planning permission has ceased to be under consideration if

a. the application was refused, or granted subject to conditions, and, in the case of an application determined by the local planning authority, the applicant did not appeal under section 78(1)(a);

b. the applicant did not appeal in the circumstances mentioned in section 78(2) and the application was not subsequently refused

c. the applicant appealed under section 78(1)(a) or section 78(2) and

i. the appeal was dismissed

- ii. the application was on appeal granted subject to conditions, or subject to different conditions, or
- iii. the Secretary of State declined to determine under section 79(6) to determine the appeal.

(2B) For the purposes of subsection (2AB), the day on which the application ceased to be under consideration is -

- a. in a case within subsection (2AC)(a), the day on which the right to appeal arose;
- b. in a case within subsection (2AC)(b), the day after the end of the prescribed period referred to in section 78(2);
- c. in a case within subsection (2AC)(c)(i), the day on which the appeal was dismissed;
- d. in a case within subsection (2AC)(c)(ii), the day on which the appeal was determined;
- e. in a case within subsection (2AC)(c)(iii) relating to an appeal under section 78(1)(a), the day on which the right to appeal arose;
- f. in a case within subsection (2AC)(c)(iii) relating to an appeal under section 78(2), the day after the end of the prescribed period referred to in section 78(2).

(2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2)(a), if -

- a. the land to which the enforcement notice relates is in Wales, and
- b. the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).

(2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if -

- a. the land to which the enforcement notice relates is in Wales, and
- b. the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.

(2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which

- a. the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;
- b. an appeal has been dismissed under section 79(6A).

(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, or
- c. by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission 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.

(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.

(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 section 175(3) would apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) of this section 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.

(6) If at any time before or during the determination of an appeal against an enforcement notice issued by a local planning authority in England it appears

to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, the Secretary of State may -

- a. give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are so specified for the expedition of the appeal, and
- b. if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

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.

(1C) Subsection(1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).(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.

(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning

permission to develop land which is granted on an application made under Part 3.

(5) Where -

- a. an appeal against an enforcement notice is brought under section 174, and
- b. the statement under section 174(4) specifies the ground mentioned in section 174(2)(a) 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.



The Planning Inspectorate

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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 <https://acp.planninginspectorate.gov.uk/> or
- ☐ sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at:
<https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>

In exceptional circumstances you may give notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement Notice that you wish to appeal or state the following:-

- ☐ the name of the local planning authority;
- ☐ the site 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 form

Private: Information that contains a small amount of sensitive data which is essential to communicate with an individual but doesn't require to be sent via secure methods.