

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

Operational Development

ISSUED BY: South Staffordshire District Council

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 that it is 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 THIS NOTICE RELATES**

Land at the rear of 20, 20A and 22A, The Avenue, Featherstone, Wolverhampton WV10 7AT outlined in red on the plan ("the Plan") attached to this notice ("the Land").

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, unauthorised operational development consisting of the construction of two single storey extensions on the land, ("the Land") outlined in red for identification purposes on the site plan attached to this report. The Unauthorised Extensions are identified on the aerial image at Appendix 1 to this report, marked building 1 ("Building 1") and building 2 ("Building 2") for identification purposes and for the avoidance of doubt.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the Unauthorised Extensions where substantially completed within the last four years and are therefore, not immune from enforcement action.

The Host Buildings, (which are 20 and 20A, The Avenue, Featherstone, Wolverhampton WV10 7AT), ("the Host Buildings") are located in the village of Featherstone and are a number of commercial units located at the junction of The Avenue and South Crescent. Rear access to the Land is off South Crescent. To the rear of the Host Buildings there is a service yard upon which the Unauthorised Extensions have been constructed.

Paragraph 134 of the National Planning Policy Framework (NPPF), states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Core Policy 4, supported by the Councils Design Guide SPD 2018 and development Policy EQ11 that seeks to promote high quality design which respects and enhances local character and distinctiveness. Developments must be of the appropriate scale, design and materials for their location and conform to the design principles set out in the Policy which includes providing an attractive, functional, accessible, safe, healthy and secure environment.

The service yard provides access to four commercial business units consisting of a number of takeaway outlets and a convenience store, all of which have now been impeded by the Unauthorised Extensions. The land also provides an area for storage of bins and other associated paraphernalia of the various business uses which is necessary for their effective functioning.

Whilst it is acknowledged that the service yard in itself is not a particularly attractive area it provides space around the buildings and amenity to those users sharing the space. The Unauthorised Extensions have almost entirely filled the usable space to the rear 20, 20A and 22A, The Avenue, This creates an incongruous juxtaposition of built form with narrow and uncomfortable spaces around it which impedes access into the neighbouring buildings. The entire form of the extension creates a cramped oppressive environment.

Since it was first built, the stark breeze block construction of Building 1 has now been clad in wooden fence panels giving Building 1 the appearance of a shed attached to a building. The use of wooden fence panels over breeze block as cladding to the whole structure is not in keeping with any local vernacular. The fence panels have been cut and pushed together giving the appearance that the building is going to fall down. This is compounded by the use of two entirely different doors and a small window which look like they have come from 3 different buildings, and which have been finished to a very poor standard in terms of their fitting. The resultant appearance is contrived, of very poor quality and wholly inappropriate. Building 2 has retained its breeze block construction and although less visible located to the rear of Building 1 is no less stark and incongruous in its setting.

Taken together the Unauthorised Extensions are overlarge and overbearing and creates cramped and unusable space about the buildings. It appears no consideration has been given to the external appearance of the building. The scheme is clearly ill considered and jars with the form other buildings in the immediate vicinity. Although not highly visible from views external to the site it can be seen from the adjacent road and public footpath, as well as from inside the site, which is a shared spaced, the building appears wholly alien and sits uncomfortably within its setting.

As such the development in contrary to paragraph 134 of the NPPF and policy EQ11 of the South Staffordshire Core Strategy Development Plan Adopted 2012.

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

5. WHAT YOU ARE REQUIRED TO DO

You Must

- i) Demolish the Unauthorised Extensions identified as Building 1 and Building 2 on the aerial image at Appendix 1 attached to this notice.
- ii) Restore the Land and the Host Buildings to their previous state and condition before the breach took place .
- iii) Remove all materials and debris resulting from compliance with i) above from the Land.

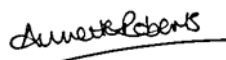
6. TIME FOR COMPLIANCE

Within three months from the date the notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 1st October 2023, unless an appeal is made against it beforehand.

Dated: 28th July 2023



Signed:

Annette Roberts

Corporate Director of Place and Communities, South Staffordshire District Council, Council Offices,
Wolverhampton Road, Codsall, South Staffordshire WV8 1PX

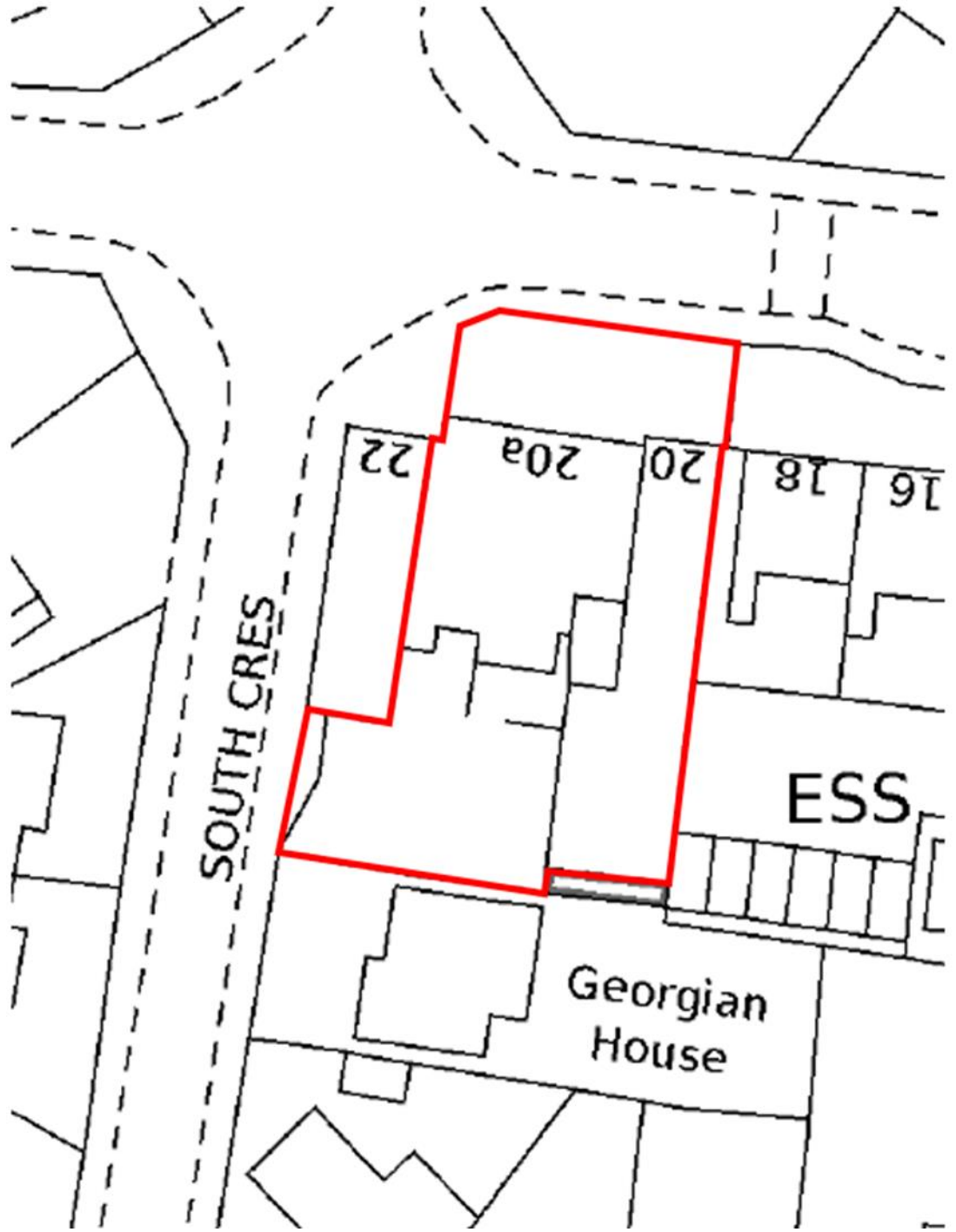
Nominated Officer:

Mark Bray, Planning Enforcement Team, South Staffordshire District Council, Council Offices, Wolverhampton
Road, Codsall, South Staffordshire WV8 1PX

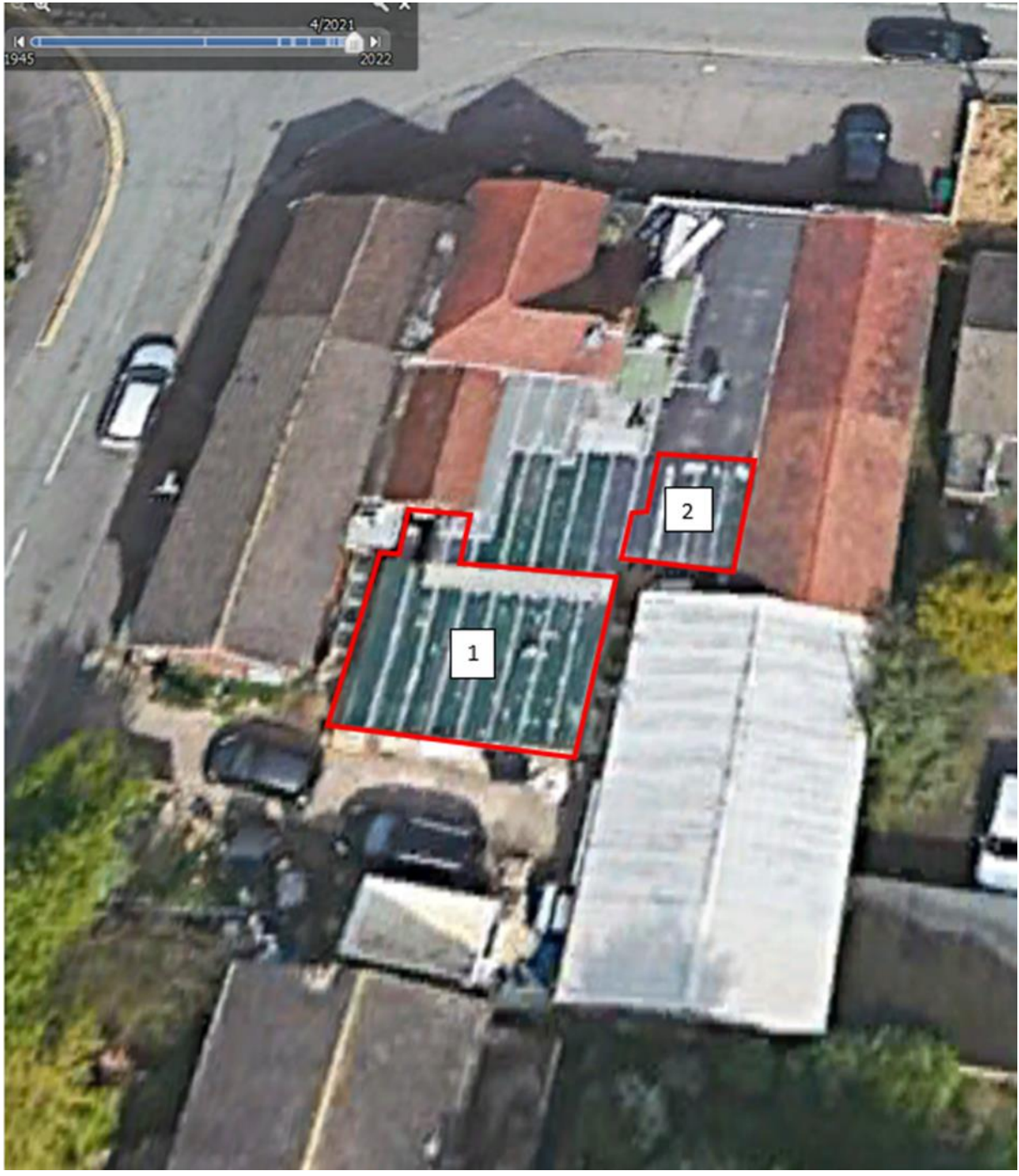
RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

Land at the rear of 20, 20A and 22 The Avenue, Featherstone, Wolverhampton WV10 7AT

Red Line Plan



APPENDIX 1



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 (as amended)

Enforcement Notice relating to land and premises Land at the rear of 20A, The Avenue, Featherstone, Wolverhampton WV10 7AT.

This local planning authority, South Staffordshire Council, has issued an enforcement notice relating to the above land and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice are also being served on the parties listed on the Notice who, it is understood, also have an interest in the Land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 1st October 2023 and you must ensure that the required steps, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 1st October 2023.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more 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 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.

Not all of these grounds may be relevant to you.

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. This amount is double the usual Planning Application fee. You should pay this fee to South Staffordshire Council (made payable to South Staffordshire Council). Joint appellants need only pay one set of fees. If you do not wish to proceed under Ground (a) then no fee is payable.

If you decide to appeal, when you submit your appeal, 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.

A copy of the appeal form and a copy of the Enforcement Notice together with a cheque for £924.00 if appealing Ground a) made payable to South Staffordshire Council should be sent to the Council addressed to:-

Corporate Director Planning & Infrastructure
South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road,
Codsall,
WV8 1PX

If you do not appeal against this enforcement notice, it will take effect on the 1st October 2023 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods 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.

Planning Enforcement Contact Officer:

Mark Bray
Planning Enforcement Consultant

South Staffordshire District Council
Planning Department
Council Offices
Wolverhampton Road
Codsall,
South Staffordshire,
WV8 1PX
Tel: 01902 696900

E-mail: m.bray@sstaffs.gov.uk

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

1. WILLIAM MASIH
254-255, Hordern Road,
Wolverhampton
WV6 0HQ

2. VANDANA GILL
254-255, Hordern Road,
Wolverhampton
WV6 0HQ

3. LLOYDS BANK PLC
Dept. No. 9983 of Pendeford Securities Centre,
Pendeford Business Park,
Wobaston Road,
Wolverhampton
WV9 5HZ.

4. SANTOKH KUMAR
568 Stafford Road,
Wolverhampton
WV10 6NN

5. RASHAM KAUR JASSAL
568 Stafford Road,
Wolverhampton
WV10 6NN

6. SAMINA SARWAR
107 Burland Avenue,
Wolverhampton
WV6 9JG

And

20a, The Avenue,
Featherstone,
Wolverhampton
WV10 7AT

7. IMRAN SARWAR
20a The Avenue,
Featherstone,
Wolverhampton
WV10 7AT

8. SUBAGINI KALAICHELVAN
16 Lyndhurst Road,
Coulsdon
CR5 3HT

9. LLOYDS BANK PLC
Dept. No.3282 Pendeford Securities Centre,
Pendeford Business Park,
Wobaston Road,
Wolverhampton
WV9 5HZ

10. LAZAROS DEMETRIOU LAZAROU
48 Hillside Road,
Sutton Coldfield
B74 4DQ

11. ANGELA LAZAROU
48 Hillside Road,
Sutton Coldfield
B74 4DQ.

ANNEX

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 Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal.

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 then 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.

Relevant Extracts from the Town & Country Planning Act 1990

[171A. — Expressions used in connection with enforcement.

- (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.]¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171A(1)-(3): England, Wales

[171B. — Time limits.

- (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 dwelling house, 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 have taken or purported to take enforcement action in respect of that breach.”] ¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.4(1) (January 2, 1992 except as it relates to breach of condition notices and subject to transitional provision specified in SI 1991/2905; July 27, 1992 otherwise subject to transitional provisions in SI 1992/1630 art.3)

Extent

Pt VII s. 171B: England, Wales

[171BA Time limits in cases involving concealment

- (1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a “planning enforcement order”) in relation to that apparent breach of planning control.
- (2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—
 - (a) The apparent breach, or
 - (b) Any of the matters constituting the apparent breach, at any time in the enforcement year.
- (3) “The enforcement year” for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).
- (4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.
- (5) Subsection (2)—
 - (a) Applies whether or not the time limits under section 171B have expired, and
 - (b) Does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.] ¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 171BA(1)-(5)(b): England, Wales

[171BB Planning enforcement orders: procedure

- (1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.
- (2) For the purposes of subsection (1), a certificate—
 - (a) Signed on behalf of the local planning authority, and

- (b) Stating the date on which evidence, sufficient in the authority's opinion to justify the application came to the authority's knowledge, is conclusive evidence of that fact.
- (3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.
- (4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—
 - (a) On the owner and on the occupier of the land, and
 - (b) On any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—
 - (a) The applicant,
 - (b) Any person on whom a copy of the application was served under subsection (4), and
 - (c) Any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.
- (6) In this section "planning enforcement order" means an order under section 171BA(1).] ¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18 -20)

Extent

Pt VII s. 171BB(1)-(6): England, Wales

[171BC Making a planning enforcement order

- (1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—

Town and Country Planning Act 1990 Page 207

- (a) The court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and
- (b) The court considers it just to make the order having regard to all the circumstances.
- (2) A planning enforcement order must—
 - (a) Identify the apparent breach of planning control to which it relates, and
 - (b) State the date on which the court's decision to make the order was given.
- (3) In this section "planning enforcement order" means an order under section 171BA(1).] ¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.124(1) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18 -20)

Extent

Pt VII s. 171BC(1)-(3): England, Wales

[Planning contravention notices] 1

[172. — Issue of enforcement notice.

- (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 and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—

Town and Country Planning Act 1990 Page 213

- (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.]¹

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 172: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 172(1)-(8): England, Wales

[172A Assurance as regards prosecution for person served with notice

- (1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—
 - (a) Explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,
 - (b) Giving the person one of the following assurances—
 - i. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
 - ii. That, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,
 - (c) Explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
 - (d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow

the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

- (2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

Town and Country Planning Act 1990 Page 214

- (3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.
- (4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.
- (5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.¹

Notes

¹ Added by Localism Act 2011 c. 20 Pt 6 c.5 s.125 (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

Extent

Pt VII s. 172A(1)-(5): England, Wales

[173. — Contents and effect of notice.

- (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 condition before the breach took place; or
 - (b) Remedying any injury to 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.

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- (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 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.]¹

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 part.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 173: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Town and Country Planning Act 1990 Page 216

Extent

Pt VII s. 173(1)-(12)(b): England, Wales

[173A. — Variation and withdrawal of enforcement notices.

- (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 power of the local planning authority to issue a further enforcement notice.]¹

Notes

¹ Added by Planning and Compensation Act 1991 c. 34 Pt I s.5(1) (November 25, 1991 for certain purposes specified in SI 1991/2728 art.2; January 2, 1992 otherwise subject to transitional provisions specified in SI 1991/2905)

Extent

Pt VII s. 173A(2)-(4): England, Wales

174. — Appeal against enforcement notice.

- (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;

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- (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.

(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 a time—

i. After the making of a related application for planning permission, but

ii. Before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.]²

(3) An appeal under this section shall be made [...] ³ —

(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 property 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]³

(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.]³¹

(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 [...] ⁴ ; and

(b) Continues so to occupy the land when the appeal is brought.

Notes

¹ Substituted by Planning and Compensation Act 1991 c. 34 Pt I s.6(1) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

² Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(4) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)

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³ S.174(3)(c) inserted in relation to Wales by Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004/3156 art.3 (January 1, 2005)

⁴ Words omitted by Planning and Compensation Act 1991 c. 34 Sch.7 para.22 (January 2, 1992)

Commencement

Pt VII s. 174: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 174(1)-(6)(b): England, Wales

P Partially In Force

175. — Appeals: supplementary provisions.

- (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.]¹

- (4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)]² 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.

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(7) [...] ³

Notes

1 Added by Planning Act 2008 c. 29 Sch.10 para.5 (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

2 Words added by Planning and Compensation Act 1991 c. 34 Pt I s.6(2) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

3 Repealed by Planning (Consequential Provisions) Act 1990 c. 11 Sch.4 para.3 (January 2, 1992: repeal has effect on January 2, 1992 for purposes specified in SI 1991/2698 art.3 subject to transitional provisions specified in SI 1991/2698 art.4 and on April 6, 2009 in relation to England only, for purposes specified in SI 2009/849 art.2(2)-(3) subject to transitional provisions specified in SI 2009/849 art.3; not yet in force otherwise)

Commencement

Extent

Pt VII s. 175(1)-(7): England, Wales

P Partially In Force

176. — General provisions relating to determination of appeals.

- (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.]¹
- (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
 - (c) Of section 175(1) within the prescribed period.
- (4) If [section 175(3) would otherwise apply and] **2** the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] **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.

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Notes

1 S.176(1)-(2A) substituted for s.176(1)-(2) by Planning and Compensation Act 1991 c. 34 Sch.7 para.23 (January 2, 1992)

2 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(a) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

3 Words inserted by Planning Act 2008 c. 29 Sch.10 para.6(b) (April 6, 2009 in relation to England and Wales for purposes specified in SI 2009/400 art.3(j); not yet in force otherwise)

Commencement

Pt VII s. 176: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 176(1)-(5): England, Wales

177. — Grant or modification of planning permission on appeals against enforcement notices.

- (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;]¹
- (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 19.]²

[(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 relates to the form of the certificate), (6) and (7) and 194.]²

[(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).]³

- (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

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- (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 and—
 - (a) The land to which the enforcement notice relates is in Wales, or
 - (b) That land is in England and 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.]⁵

[(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

- (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.

Notes

- 1 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(a) (January 2, 1992)
- 2 S.77(1)(c), (1A) and (1B) substituted for s.77(1)(c) by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(1)(b) (July 27, 1992 subject to transitional provisions specified in SI 1992/1630 art.3)
- 3 Added by Localism Act 2011 c. 20 Pt 6 c.5 s.123(5) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)
- 4 Substituted by Planning and Compensation Act 1991 c. 34 Sch.7 para.24(2) (January 2, 1992)
- 5 Words and s.177(5)(a)-(b) substituted for words by Localism Act 2011 c. 20 Pt 6 c.5 s.123(6) (April 6, 2012 subject to SI 2012/628 arts 9, 12, 13, 16 and 18-20)
- 6 Added by Planning and Compensation Act 1991 c. 34 Pt I s.6(3) (January 2, 1992 subject to transitional provisions specified in SI 1991/2905)

Commencement

Pt VII s. 177: August 24, 1990 (1990 c. 8 Pt XV s. 337(2))

Extent

Pt VII s. 177(1)-(8): England, Wales

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1. THIS IS IMPORTANT

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

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk/) (<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> (<https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>).

In exceptional circumstances you may give written 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 forms.