Appendix 6

19/0095/ENF (C)

Surrey Heath Borough Council
Surrey Heath House
Knoll Road
Camberley
Surrey GU15 3HD
01276 707100
DX: 32722 Camberley
www.surreyheath.gov.uk

Service **Corporate Enforcement**
Our Ref: 19/00095/ENF
Your Ref:
Direct Tel: 01276 707100
Email: **Corporateenforcement @surreyheath.gov.uk**

Chobham Adventure Farm
Bagshot Road
Chobham
Surrey
GU24 8DB

Date: 21 February 2023

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Chobham Adventure Farm,

ENFORCEMENT NOTICE – THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
Land at Former Hillings Nursery, Bagshot Road, Chobham, GU24 8DB.

Please find enclosed the following, which is served on you as an interested party of the above land:

- Enforcement Notice in respect of "Land at Former Hillings Nursery, Bagshot Road, Chobham, GU24 8DB".

Please also find enclosed guidance from the Planning Inspectorate if you intend to appeal the Enforcement Notice. To avoid your appeal not being determined by the Planning Inspectorate, please ensure you submit your appeal to the Planning Inspectorate before the date the Notice takes effect.

Accordingly, should you wish to discuss the contents of the Notice then please do not hesitate to contact the team at your earliest convenience.

Yours faithfully

Corporate Enforcement
Surrey Heath Borough Council

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE: 19/0095/ENF (C)

ISSUED BY: SURREY HEATH BOROUGH COUNCIL

ISSUED BY: **Surrey Heath Borough 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 enclosure to which it refers contain important additional information.

2. THE LAND TO WHICH THIS NOTICE RELATES:

Land at former Hillings Nursery, Bagshot Road, Chobham GU24 8DB shown edged in red on the attached location plan ("the Land").

3. THE MATTER WHICH APPEARS TO CONSTITUTE THE BREACH OF PLANNING CONTROL:

Without planning permission, the construction of two open-sided gazebo structures, a curved roof building on the western boundary, and a canopy all shown shaded orange on the attached plan; the construction of hardstanding west and south of the animal building as shown hatched black on the attached plan; the material change of use of the land shown shaded purple from horticulture to a car park for Chobham Adventure Farm.

REASONS FOR ISSUING THIS NOTICE:

1. It is considered that construction and siting of the two open-sided gazebo structures, the curved roof building on the western boundary and the canopy has occurred within the last 4 years.

2. It is considered that the construction of the hardstanding west and south of the animal building has occurred within the last 4 years.

3. It is considered that the material change of use of the land shown shaded purple from horticulture to a car park for Chobham Adventure Farm has occurred within the last 10 years.

4.The unauthorised use of the land for the parking of vehicles in association with Chobham Adventure Farm; and the unauthorised siting of the gazebos, canopy, curved roof building and hardstanding west and south of the animal building; is inappropriate development, fails to preserve Green Belt openness and conflicts with the purposes of including land within the Green Belt. It causes harm therefore by reason of inappropriateness, harm to openness, and harm to the visual amenities of the Green Belt as well as harm to character given its urbanising effect on the rural area. No very special circumstances exist to outweigh the identified harm. The use is therefore detrimental and contrary to Policies CP1, CP2, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012, the National Planning Policy Framework and National Planning Practice Guidance.

4. WHAT YOU ARE REQUIRED TO DO:

1.Remove from the site the two open sided gazebos, curved roof building, and canopy shown shaded orange on the attached plan;

2.Remove from the site the areas of hardstanding west and south of the animal building as shown hatched black on the attached plan;

3.Cease the use of the area shaded purple on the attached plan for car parking and return this to grass/soft landscaping in accordance with plan 0009-01 (A) approved under permission SU12/0385.

TIME FOR COMPLIANCE:

Two (2) months after the date the Enforcement Notice takes effect.

WHEN THIS NOTICE TAKES EFFECT:

This notice takes effect on **31 March 2023** unless an appeal is made against it beforehand.

Dated: 21 February 2023

G.Chinniah

Signed:.....boxSIGN.....

Mr. Gavin Chinniah

Head of Planning, Surrey Heath Borough Council, Surrey Heath House, Knoll Road, Camberley, Surrey, GU15 3HD

Nominated officer: Emma Pearman

Telephone number: 01276 707100

THE ANNEX

Important – This Communication Affects Your Property
Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

Enforcement Notice: 19/0095/ENF (C)
Relating to the property known as Land at former Hillings Nursery, Bagshot Road, Chobham GU24 8DB and identified on the attached plan outlined in red ("The Land").

This local planning authority, Surrey Heath Borough Council, has issued an Enforcement Notice relating to the Land and I now serve on you a copy of that Enforcement Notice as you have an interest in the Land.

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against this notice. 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
link to http://www.planningportal.gov.uk/uploads/pins/enfinfosheet.pdf

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 Enforcement 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 Enforcement 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 Enforcement Notice to be taken, or the activities required by the Enforcement 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 Enforcement 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 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 reply 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 Enforcement Notice and you will have to pay a fee equivalent to double the amount payable for a normal planning application (in this case £1848). You should pay the fee to Surrey Heath Borough Council. Joint appellants need only pay one set of fees.

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.

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 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.

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:

1) Chobham Adventure Farm, Bagshot Road, Chobham, GU24 8DB

2) The Owner, Land at former Hillings Nursery, Bagshot Road, Chobham GU24 8DB

3) The Occupier, Land at former Hillings Nursery, Bagshot Road, Chobham GU24 8DB

4) Easigrass Distribution Limited, Former Hillings Nursery, Bagshot Road, Chobham GU24 8DB

5) Easigrass Distribution Limited, Gable House, 239 Regents Park Road, Finchley, London, N3 3LF

6) T. Hilling & Co. Limited, The Nurseries, Chobham, Surrey

7) T. Hilling & Co. Limited, Oakleigh, Hookstone Lane, West End, Woking, Surrey, GU24 9QP

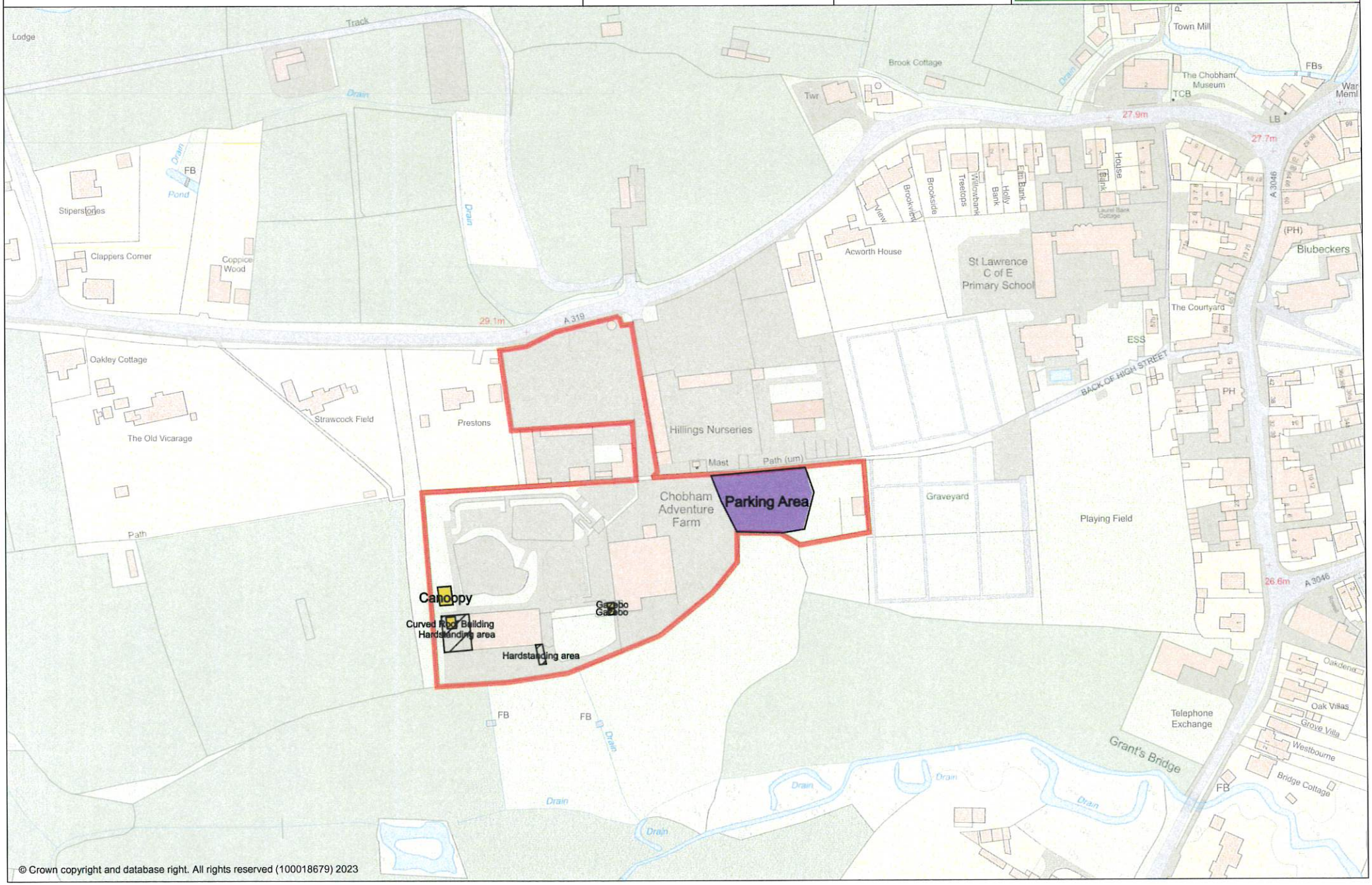
8) The Guildford Diocesan Board of Finance (Co. Regn. No. 225289) of Church House Guildford, 20 Alan Turing Road, Guildford, GU2 7YF

9) Lloyds Bank PLC (Co. Regn. No. 2065) Pendeford Securities Centre, Dept 9696, Pendeford Business Park, Wobaston Road, Wolverhamton, WV9 5HZ

10) Landform Consultants Limited, The Nursery, Bagshot Road, Chobham, Surrey GU24 8DB

Chobham Adventure Farm	Surrey Heath Borough Council	
Enforcement Notice Site Plan C	**Author:** B. green	0 20 40 60 80m
	Date: 22/02/2023	Scale: 1:2500

SURREY HEATH BOROUGH COUNCIL



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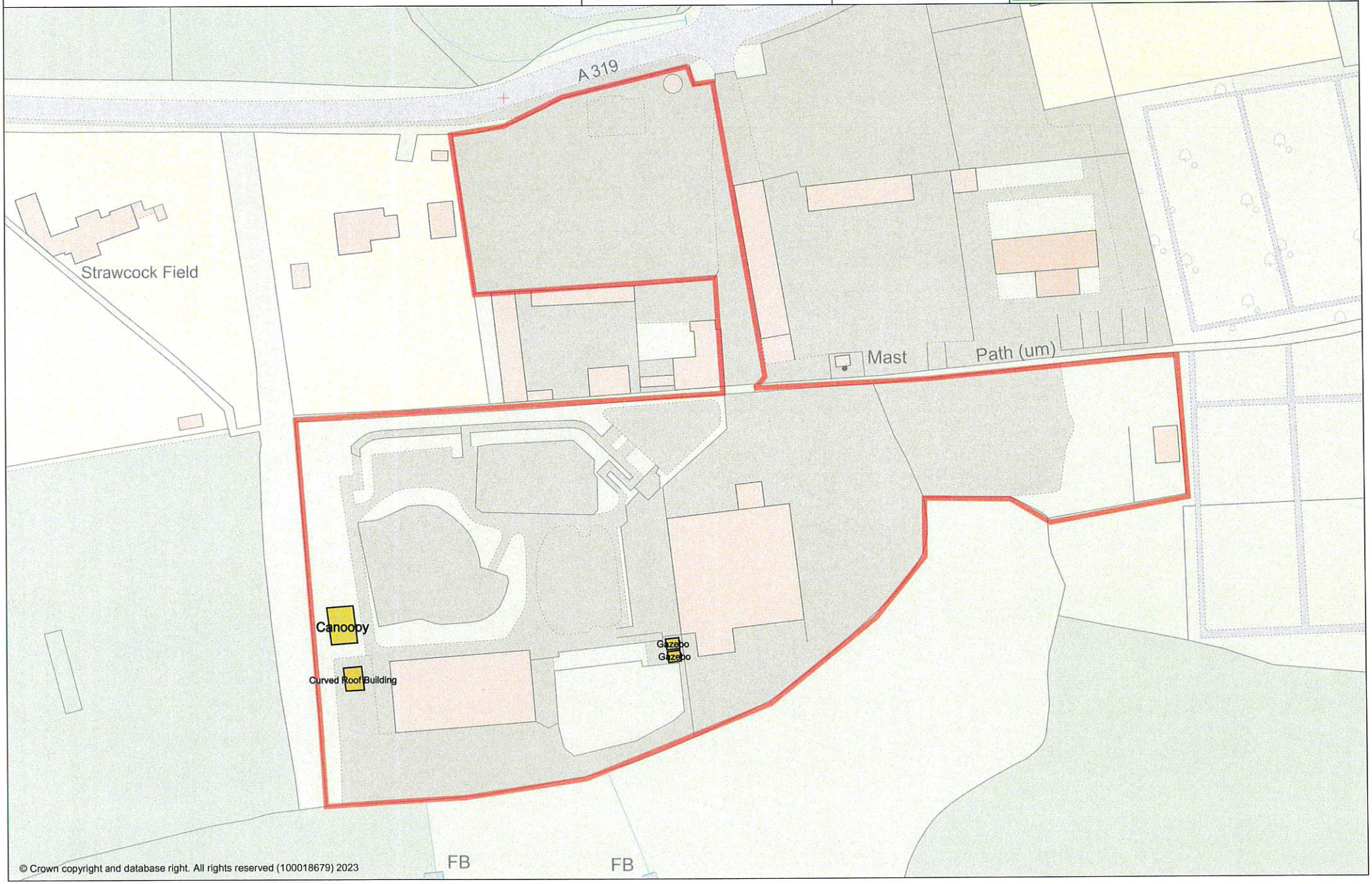
Chobham Adventure Farm	Surrey Heath Borough Council	SURREY HEATH BOROUGH COUNCIL
Enforcement Notice Site Plan C - Requirement 1	**Author:** B. green **Date:** 21/02/2023	0 10 20 30 40m Scale: 1:1250



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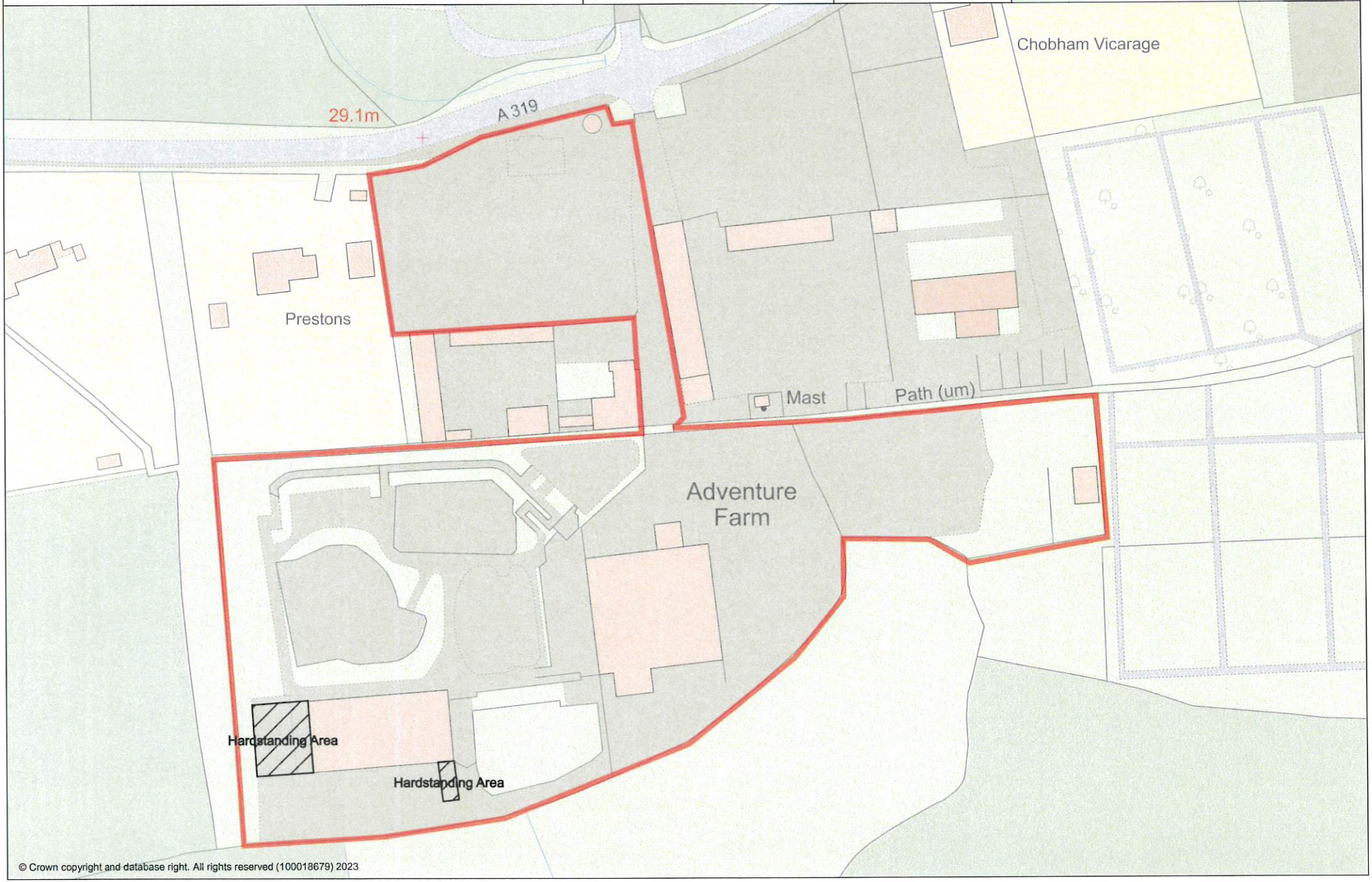
Chobham Adventure Farm	Surrey Heath Borough Council	SURREY HEATH BOROUGH COUNCIL
Enforcement Notice Site Plan C - Requirement 2	**Author:** B. green **Date:** 21/02/2023	0 10 20 30 40m Scale: 1:1250



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Chobham Adventure Farm	Surrey Heath Borough Council	SURREY HEATH BOROUGH COUNCIL
Enforcement Notice Site Plan C - Requirement 3	**Author:** B. green **Date:** 21/02/2023	0 10 20 30 40m Scale: 1:1250

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STATUTORY PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990

In accordance with Regulation 5(a) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002, the legislative provisions of sections 171A, 171B and 172-177 of the Town and Country Planning Act 1990 are set out as follows:

Section 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

Section 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 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 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

Section 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 –

(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 - 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 local planning 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

(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 the 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, 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 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 has been served on him

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

(a) that, in respect of the 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 breach

(g) that the 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 should be made –

(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 – 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 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 beginning 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 an order under s289(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

Section 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

(3) The Secretary of State –

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time period; 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 not that person had been substantially prejudiced by the failure to serve him

Section 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 on 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 section 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 Stat

(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) 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 is 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 the 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