



## Directorate for Planning, Growth and Sustainability

King George V House, King George V Road, Amersham, Bucks HP6 5AW

planning.csb@buckinghamshire.gov.uk

01494 732950 | 01895 837210

www.buckinghamshire.gov.uk

Ms Stephanie Bennett  
Iver Parish Council,  
45B High Street,  
Iver,  
SL0 9ND

Officer: Mitchel Pugh  
Email: [planning.appeals.csb@buckinghamshire.gov.uk](mailto:planning.appeals.csb@buckinghamshire.gov.uk)  
Tel: 01494 732950 /;01895 837210  
Ref: APP/N0410/C/22/3312173

21 December 2022

Dear Sir/Madam,

### TOWN AND COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 174

**Site Address:** Iver Flowerland, Norwood Lane, Iver Heath, Buckinghamshire, SL0 0EW

**Appellant's name(s):** Mr Peter Hooper

**Inspectorates Case Reference(s):** APP/N0410/C/22/3312173

**Appeal start date:** 15 December 2022

An appeal has been made to the Secretary of State against an enforcement notice issued by Buckinghamshire Council on 28 October 2022. A copy of the enforcement notice which sets out the alleged breach of planning control, reasons for issuing the notice and steps taken is attached for your attention.

The appellant has appealed against the notice on the following grounds:

**Ground (a)** – that planning permission should be granted for what is alleged in the notice.

**Ground (d)** – that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

**Ground (f)** – the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.

**Ground (g)** – that the time given to comply with the notice is too short.

The appeal will be determined on the basis of written representations. The procedure to be followed is set out in Part 2 of the Town and Country Planning (Appeals)(Written Representations Procedure)(England) Regulations 2009.

If you wish to make comments, or modify/withdraw your previous representation, you can do so on the Planning Inspectorates website at <https://acp.planninginspectorate.gov.uk> or by emailing [team3@planninginspectorate.gov.uk](mailto:team3@planninginspectorate.gov.uk). The Planning Inspectorate Case Officer can also be reached by telephone on 0303 444 5589. If you do not have access to the internet, you can send three copies to:

Ben White  
The Planning Inspectorate  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

All representations must be received by the Planning Inspectorate by 26 January 2023. Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. All representations must quote the appeal reference APP/N0410/C/22/3312173.

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal. Information provided in your representation will be published on the Council's website. We will use our best endeavours to ensure that signatures, telephone numbers and personal email addresses are not published.

If you submit comments and then subsequently wish to withdraw them, you should make this request to the Planning Inspectorate by 26 January 2023.

The appeal documents are available for inspection at the Council Offices at the above address. The Offices are open to visitors from 9.00am to 5.00pm Mondays to Thursdays and from 9.00am to 4.30pm on Fridays.

More information and guidance on taking part in appeals is available from the Planning Inspectorate's website, [www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate). You can download a copy of the Planning Inspectorate's "Guide to taking part in planning appeals" booklet(s) free of charge from [www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal](http://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal). The guide explains who decides an appeal and what the rules are, how you can make your views known and what is considered.

When made, the decision will be published on the Planning Inspectorate's website and the Council's website.

Yours faithfully,

Mitchel Pugh  
Principal Enforcement Officer



## TOWN AND COUNTRY PLANNING ACT 1990

(as amended)

### ENFORCEMENT NOTICE

#### ISSUED BY: Buckinghamshire Council ("the Council")

1. **THIS NOTICE** is issued by the Council because it appears to it 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. The Council considers 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 THE NOTICE RELATES**

Land on the South Side of Norwood Lane, Iver, SL0 0EW. ("the Land"), shown edged in a **thick black line** on the attached Plan 1.

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

Without planning permission, a material change of use of the Land and buildings to a mixed use comprising Storage and Distribution (Use Class B8), agriculture and horticulture (the '*unauthorised use*') and integral to the unauthorised use, the carrying out of operational development comprising the laying of hardstanding, the formation of bunding and the siting of associated paraphernalia, items, equipment and vehicles (the '*unauthorised development*')

#### **4. REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last **TEN** years

1. The Land is located within the Metropolitan Green Belt wherein there is a general presumption against inappropriate development, except in very special circumstances. The development constitutes inappropriate development within the Green Belt, which, is harmful by definition. As well as causing harm to the Green

Belt by reason of its inappropriateness, other harm is caused to the Green Belt by way of a reduction in its openness and a conflict with its purposes. This is as a result of the substantial expansion of the existing hard-surfaced area, which would be used for the storage of landscaping materials and plants and associated paraphernalia. The NPPF sets out that substantial weight should be given to any harm to the Green Belt. No very special circumstances have been advanced as the harm that is caused to the Green Belt by reason of inappropriateness and a reduction in openness, and any other harm, cannot be clearly outweighed. As such, the development is contrary to policy GB1 of the South Bucks District Local Plan (adopted March 1999) and section 13 (Protecting Green Belt Land) of the NPPF.

2. Based on the review of the evidence provided as part of Application PL/22/0758/FA the access from Swallow Street serving the site is inadequate by reasons of its width and alignment to allow for the safe manoeuvring of large vehicles associated with the development. The unauthorised development would therefore likely lead to large vehicles performing multiple manoeuvres within the highway to the detriment of highway safety and convenience. Furthermore, consistent with the Council's determination of Application PL/22/0758/FA, the existing access to the site from Swallow Street is not to an acceptable standard for the vehicular movements associated with the use of the site and therefore would likely result in the deposit of material onto the adopted highway to the detriment to the safety of highway users. The development is therefore contrary to paragraph 111 of National Planning Policy Framework, Buckinghamshire Council Local Transport Plan 4 (adopted April 2016), the Buckinghamshire Council Highways Development Management Guidance document (adopted July 2018)." and policy TR5 of the adopted South Bucks District Local Plan (1999)
3. The majority of the Land, excluding the Land and buildings within the Flowerland complex, presents a distinctly open and rural character. The presence of this unauthorised use, specifically in the open, acts to materially disrupt this existing character. In addition to this alleged discrete landscape impact, the unauthorised development results in a detriment upon the amenity of the locality. Noise, dust and light impacts arising from the external portions of the development, including HGV movements, would likely affect the nearest residential properties along Swallow Street. The unauthorised development is therefore considered to be contrary to policy EP3 of the adopted South Bucks District Local Plan (1999)

## **5. WHAT YOU ARE REQUIRED TO DO**

1. Cease the use of the Land and buildings (outlined in a thick black line on the attached Plan 1) for storage and distribution purposes (Use Class B8);
2. Remove from the Land (outlined in a thick black line on the attached Plan 1), all hardstanding shown in the approximate position shown hatched on the attached Plan 2;

3. Remove from the Land (outlined in a thick black line on the attached Plan 1) the bunding shown in the approximate position indicated by the diamond on the attached Plan 3;
4. Remove from the Land and buildings (outlined in a thick black line on the attached Plan 1), all paraphernalia, items, equipment and vehicles associated with the unauthorised storage and distribution use (Use Class B8);
5. Remove all materials and debris resulting from complying with steps 1 to 4 of this Notice from the Land.

## **5 TIME FOR COMPLIANCE**

In relation to the requirements at 5.1 of this Notice, the use should cease within **3 months** of the date this Notice takes effect;

In relation to the requirements at 5.2, 5.3, 5.4 & 5.5 of this Notice, the removal of all items should be carried out within **5 months** of the date this Notice takes effect.

## **6 WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on **1<sup>st</sup> December 2022** unless an appeal is made against it prior to that date.

Issued: 27th October 2022



Signed

Gemma Davies - Planning Enforcement Manager on behalf of

**Buckinghamshire Council**

Walton Street Aylesbury Buckinghamshire HP20 1UA

Council Reference Number: ES/22/00587/MW

Enquiries to: Mitchel Pugh

Email: [mitchel.pugh@buckinghamshire.gov.uk](mailto:mitchel.pugh@buckinghamshire.gov.uk)

Direct line: 07809231840

**LIST OF THOSE SERVED WITH  
A COPY OF THE ENFORCEMENT NOTICE**

The Owner/s, Land on the South Side of Norwood Lane, Norwood Ln, Iver SL0 0EW,

The Occupier/s, Land on the South Side of Norwood Lane, Norwood Ln, Iver SL0 0EW,

The Owner/s, Flowerland, Norwood Ln, Iver SL0 0EW

The Occupier/s, Flowerland, Norwood Ln, Iver SL0 0EW

The Company Secretary/Clerk, Greens Team Ltd, 5 Elstree Gate, Elstree Way, Borehamwood,  
Hertfordshire, WD6 1JD

Peter James Hooper, Cotswold, Perrymead, Bath, United Kingdom, BA2 5AX

HELEN A PETTIFER, 57 Kingsgate Road, London, NW6 4TD

JOHN E F DUTTON, 1 West Court, High Street, Bray, Maidenhead SL6 2AP

LOUISE HARTLEY, Annadale, Duncton, Petworth, GU28 0LB

The Company Secretary/Clerk, Iver Flowerland Limited, Bourne End Garden Centre, Hedsor Road,  
Bourne End, Buckinghamshire, SL8 5EE

## **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 explains how to appeal against this enforcement notice.

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 unauthorised development alleged in the notice and you will have to pay a fee of **£924** which is payable to Buckinghamshire Council.

## **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 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.

### **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). These provisions are stated in full below.

#### **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.
- (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 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 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.

#### **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.
- (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.

### **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 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 requires 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 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 – 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.

### **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 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 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.
- (2C) Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may be also brought on the grounds that -
- (a) the relevant demolition was urgently necessary in the interests of safety or health;
  - (b) it was not practicable to secure safety or health by works of repair or works affording temporary support or shelter; and
  - (c) the relevant demolition was the minimum measure necessary.
- (3) An appeal under this section shall 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 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 be 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.

### **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.
- (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 otherwise 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.

### **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 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 relates 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

Customer Support Team  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line: 0303-444 5000  
Email [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

### THIS IS IMPORTANT

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

- on-line at the Appeals Casework 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>.

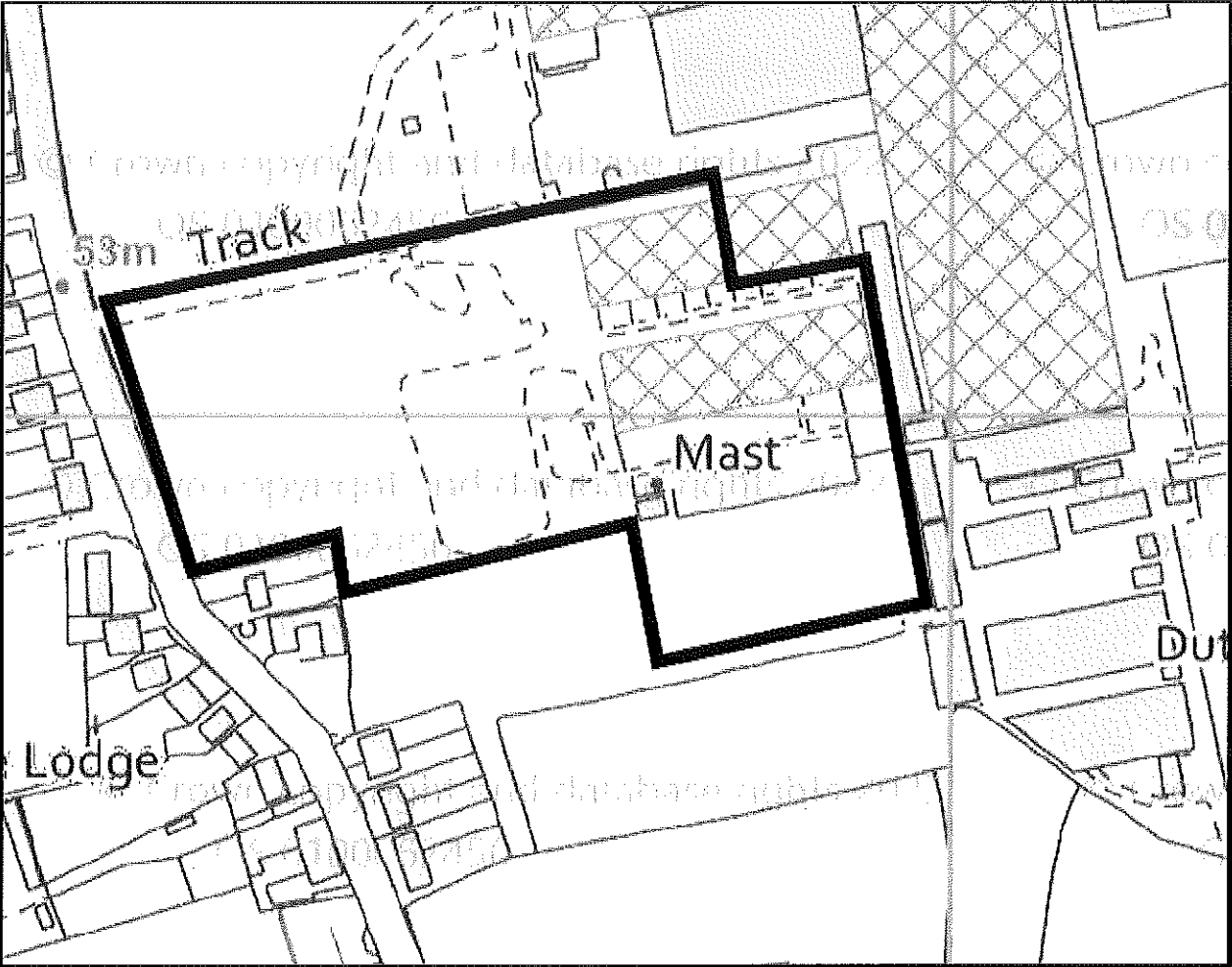
In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

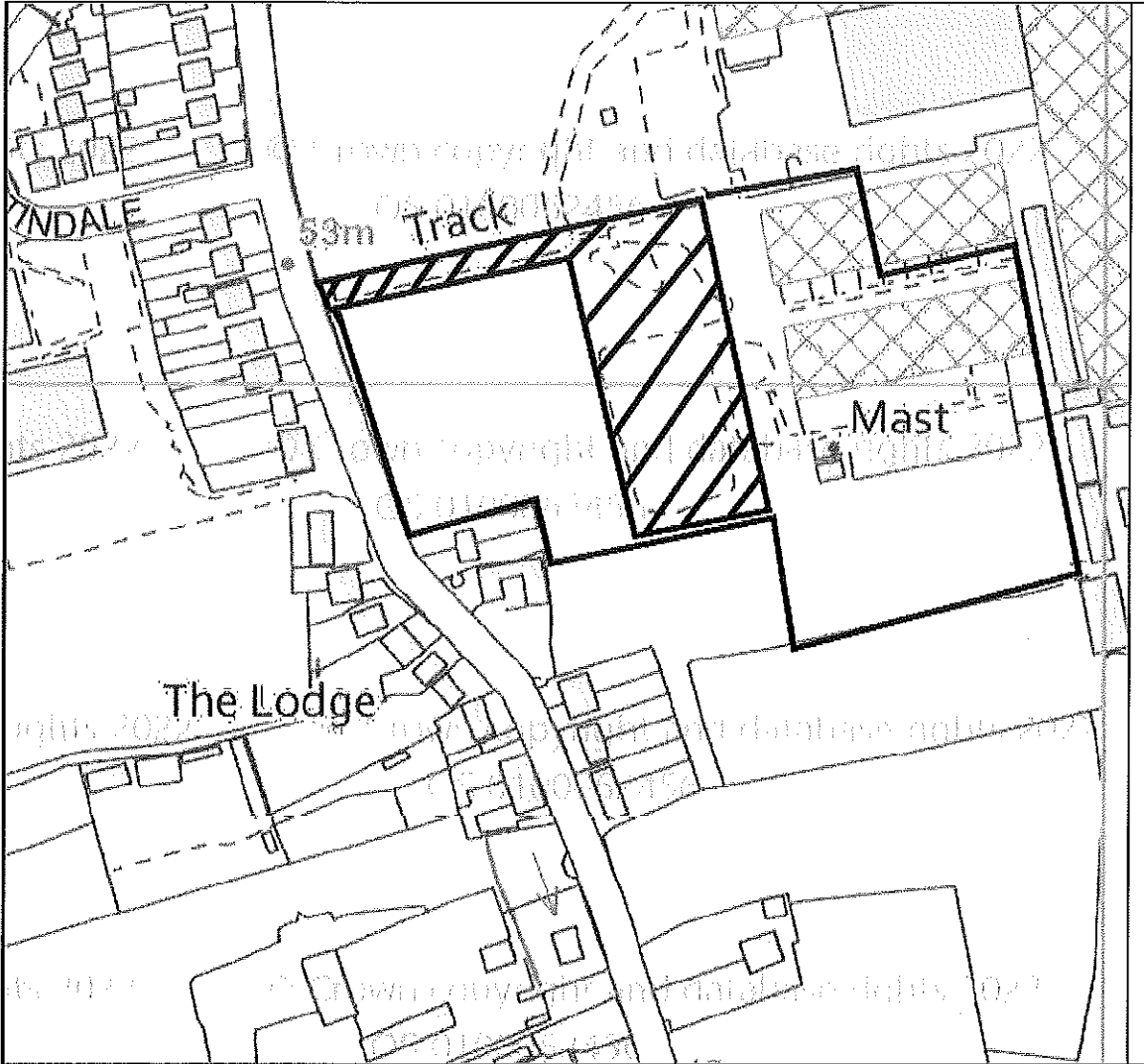
We MUST receive this BEFORE the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

YOU must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring you, a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

**Plan 1 - Land on the South Side of Norwood Lane, Iver, SL0 0EW, shown edged in a thick black line.**



**Plan 2- Land on the South Side of Norwood Lane, Iver, SL0 0EW, shown edged in a thick black line.**





**Plan 3- Land on the South Side of Norwood Lane, Iver, SL0 0EW, shown edged in a thick black line.**

