



Planning Services

County Hall, Colliton Park
Dorchester, Dorset, DT1 1XJ

☎ 01305 838336- **Development Management**

🖱 www.dorsetcouncil.gov.uk

**The Company Secretary
Royale Parks (Dorset) Ltd
Site Office Gundry's Farm,
School Lane
Three Legged Cross
Wimborne
BH21 6RU**

Date 4th October 2022
Contact Mark Hitchcott
Our Ref ENF/17/0094
Telephone 01202 228813
Email mark.hitchcott@dorsetcouncil.gov.uk

Dear Sir/Madam

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

ISSUE OF : ENFORCEMENT NOTICE

LAND AT : Gundry's Farm School Lane, Three Legged Cross, Wimborne, Dorset.

Dorset Council considers it expedient to serve an Enforcement Notice regarding the unauthorised change of use of part of the land known as Gundry's Farm.

The plan attached to the notice identifies the area of land which the notice relates to and, section 3 of the notice describes the breach which in this case consists of the unauthorised material change of use of the land and operational development integral to the unauthorised use.

Please read the attached notice carefully. I would draw attention to the fact that after discussions with the agent for the owners' that the notice does not take until 28th December 2022, a longer period than normal. This is to enable more time for an appeal to be lodged. Unless an appeal against the notice, as set out in the additional information provided in the Annex to the notice, is lodged by this date the notice will come into effect and all the requirements there in should be completed within the compliance period.

If you require further information in respect of the notice, please do not hesitate to contact me.

Your co-operation is much appreciated. A list of parties on whom the Enforcement Notice has been served appears below.

Yours faithfully

**Mark Hitchcott
Senior Enforcement Officer**

The enclosed copy Enforcement Notice(s) has/have been served on the following individuals/Company:

The Company Secretary
Royale Parks (Dorset) Ltd
Royale House
1550 Parkway,
Whiteley, Fareham,
Hampshire.
PO15 7AG

The Company Secretary
Royale Parks (Dorset) Ltd
Site Office Gundry's Farm,
School Lane
Three Legged Cross
Wimborne
BH21 6RU

FAO The Board Of Managers
ICG-Longbow Investment NO. 5 S.A.R.L
(incorporated in Luxembourg)
2 Boulevard Konrad Adenauer, L-1115
Luxembourg Grand, Luxembourg,

FAO Graeme Troll.
Longbow Real Estate Capital LLP,
42 Wigmore Street,
London W1U 2RY

Site Notice (at the site)
To whom it may concern
Gundry's Farm
School Lane
Three Legged Cross
Wimborne
BH21 6RU

Mr Basil Reginald Pitt and Mrs Loraine Pitt,
Westerly Grange
Ringwood Road
Three Legged Cross,
Wimborne.
BH21 6RD.



The Planning Inspectorate

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

Direct Line 0303-444 5000
Email enquiries@planninginspectorate.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; 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.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING
(ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017**

REGULATION 37 NOTICE

ISSUED BY: DORSET COUNCIL

1. **THIS IS A FORMAL NOTICE** is issued by the Council under Regulation 37 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in connection with the Council's Enforcement Notice dated 24/03/2021 in respect of the land at Gundrys Farm, School Lane, Three Legged Cross, Wimborne, Dorset, shown edged red on the attached plan, in connection with the alleged breaches of planning control:

Without planning permission:

- a. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990 the unauthorised material change in the use of the Land marked on the attached plan as "Planning Unit A" from a lawful mixed use of agriculture and a caravan site for exempt organisations in accordance with Part 5 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 and schedule 1 of the Caravan Sites and Control of Development Act 1960 to a mixed use of agriculture and an authorised caravan site consisting of:
- i. The stationing of caravans (with and without awnings), motorhomes, campervans, trailer-tents and tents for the purpose of human habitation; and
 - ii. The storage of caravans.
 - iii. The keeping of donkeys,

and;

- b. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990, the carrying out of unauthorised operational development on the Land marked on the attached plan as "Planning Unit A", which facilitated the unauthorised material change in use of the land alleged in a. The unauthorised operational development consisted of the installation of the following, in the approximate positions marked X on the attached plan:
- i. Hard standings and tracks;
 - ii. Toilet and shower blocks;
 - iii. Sceptic Tanks
 - iv. Electrical hook-up equipment;
 - v. Fire hydrants;
 - vi. A water/waste water facility
 - vii. Location signs.
 - viii. Animal shelter and concrete base

2. It is the Council's opinion that the development to which the Enforcement Notice relates is "Schedule 2 development" within the meaning of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 being Tourism and leisure development covering more than 1 hectare and potentially accommodating over 200 units comprising of caravans, motorhomes and tents which is considered likely to have significant effects on the environment for the following reasons:
- the development's size and likely capacity to be able to accommodate over 200 plus caravans, tents and/or camper vans on former agricultural land, in accumulation with what is deemed to be lawfully established on the site (a total of 54 units comprising of caravans, tents and/or camper vans, making no distinction between them, on land measuring approximately 1.9 hectares);
 - together with the necessary infrastructure to facilitate such a large camping and caravanning use;
 - together with the amount of significant traffic movements associated with such a use, noise and general nuisances caused by the coming and going of users of such a facility, and;
 - its proximity to Holt and West Moors Heath SSSI which is also an Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site (wetlands and waterfowl) protected by international legislation, which will add visitor pressures to these areas, and risk of predation of wildlife at this site by cats, disturbance to ground nesting birds by dogs

3. Accordingly, subject to any direction by the Secretary of state to the contrary, any appeal under Section 174 of the Town & Country Planning Act against the Enforcement Notice must be accompanied by two (2) copies of an Environmental Statement. Please read the notes below for information about appeals, directions and Environmental Statements.

DATED: 4th October 2022



Signed:

Anna Lee
Service Manager for Development Management & Enforcement

On behalf of: Dorset Council
Planning Services
County Hall
Colliton Park
Dorchester.
DT1 1XJ

ANNEX

APPEALS/NOTES

If you wish to appeal against the Enforcement Notice, you must follow the instructions provided with the Planning Enforcement Notice. Please remember that the Secretary of State consider your arguments against the Enforcement Notice if you fail to observe the time limit for appeal specified in that Notice.

Should you decide to appeal under section 174(1) of the Town & Country Planning Act 1990 (Appeal against enforcement notice) you are required to submit to the Secretary of State with the notice, 2 copies of an Environmental Statement relating to that EIA development.

Please note that the Council has provided the Secretary of State with a copy of this Regulation 37 Notice and a list of the other persons to whom a copy of the Notice has been served or has an interest in it.

DIRECTIONS

A copy of the Council's screening opinion has been attached to this Notice at **Appendix A**.

In accordance with Regulation 38, and as a person on whom the notice has been served, you may, within 3 weeks beginning with the date this notice is served on you, apply to the Secretary of State for a screening direction and the following shall apply—

38 (a) an application for a screening direction under this regulation must be accompanied by—

- (i) a copy of the regulation 37 notice;
- (ii) a copy of the enforcement notice which accompanied it; and
- (iii) the information required under regulation 6(2), such information to be prepared, where relevant, in accordance with regulation 6(4);

(b) at the same time as applying to the Secretary of State, the applicant must send to the authority by whom the regulation 37 notice was served a copy of the application under this regulation and of any information or representations provided or made in accordance with paragraph (a)(iii);

(c) if the Secretary of State considers that the information provided in accordance with sub-paragraph (a) is insufficient to make a direction, the Secretary of State must notify the applicant and the authority of the matters in respect of which additional information is required; and the information so requested must be provided by the applicant within such reasonable period as may be specified in the notice;

(d) the Secretary of State must make a screening direction within—

- (i) 3 weeks beginning with the date of receipt of a request made pursuant to this regulation; or

(ii) where the Secretary of State gives notice under paragraph (c), such longer period not exceeding 90 days beginning with the date on which the person making the request for a screening direction submits the information required under paragraph (c) as may be reasonably required;

(e) the Secretary of State must send a copy of the direction to the applicant; and

(f) without prejudice to paragraph (e), where the Secretary of State directs that the matters which are alleged to constitute the breach of planning control do not comprise or include EIA development, the Secretary of State must send a copy of the direction to every person to whom a copy of the regulation 37 notice was sent.

ENVIRONMENTAL STATEMENTS

An Environmental Statement is a document or series of documents prepared for the purposes of enabling the Secretary of State to assess the likely impacts on the environment of the development to which this Notices relates.

For Guidance on how to prepare Environmental Statements, and other in respect to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, please use the following link:

<https://www.gov.uk/guidance/environmental-impact-assessment>

IMPORTANT

Please remember that an application for a direction in the connection with this Regulation 37 Notice does not affect the time limit for an appeal specified in the Enforcement Notice. An appeal against the Notice must be received by the Secretary of State before the date specified in the Enforcement Notice as the date on which it takes effect.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: Dorset Council (the 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 THE NOTICE RELATES**

The Land at Gundry's Farm, School Lane, Three Legged Cross, Wimborne, Dorset, shown edged red on the attached plan (the Land).

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

Without planning permission, the unauthorised material change in the use of the Land:

A. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990 the unauthorised material change in use of the Land edged red on the attached plan marked as "Planning Unit A" from a lawful mixed use of agriculture and a caravan site for exempt organisations in accordance with Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and schedule 1 of the Caravans Sites and Control of Development Act 1960 to a mixed use of agriculture and an unauthorised caravan site consisting of:

- i. The stationing of caravans (with and without awnings), motorhomes, campervans, trailer-tents and tents for the purpose of human habitation; and
- ii. The storage of caravans.
- iii. The keeping of donkeys,

and;

B. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990, the carrying out of unauthorised operational development on the Land edged red on the attached plan marked as "Planning Unit A", which facilitates the unauthorised material change in use of the land alleged in section A. above. The unauthorised integral operational development consisting of the following:

- i. Hard standings and tracks;
- ii. Toilet and shower blocks;

- iii. Sceptic Tanks
- iv. Electrical hook-up equipment;
- v. Fire hydrants;
- vi. A water/waste water facility
- vii. Location signs.
- viii. Animal shelter and concrete base

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred in the last ten years and as such is not immune to enforcement by virtue of section 171B(3) of the Act.

The presumption in favour of sustainable development does not apply for the unauthorised development in this location unless an appropriate assessment has concluded that the project will not adversely affect the integrity of the nearby habitat's sites. No such assessment has concluded this is the case.

The location, scale and distribution of the unauthorised development fails to conform to the settlement hierarchy. The unauthorised development is considered as a whole to erode the site's openness and as such undermines the Green Belt's essential characteristics increases visitor pressure on the Dorset Heaths and in the absence of any possible or appropriate mitigation the unauthorised development is not acceptable.

The site also lies within a 400m to 5km distance of a number of other protected heathland sites, including other parts of Holt and West Moors Heath SSSI to the north of the site and other protected habitats in the area. The unauthorised development is considered of a type that would have the same impacts as a C3 Residential use, which would not be appropriate in this location, and, therefore, the unauthorised development is not acceptable in this location.

The potential noise, impact upon residential amenity, general disturbance, traffic generation, unlawful works and unauthorised use are considered contrary to policy. The unauthorised development has a harmful impact on the amenity of the area.

Whilst this business site makes a positive contribution to the local rural economy through tourism (many local attractions), such a use of land must not cause harm to the openness of the Green Belt nor have adverse impacts on sensitive habitats. The unauthorised use increases visitor pressure on the Dorset Heaths and in the absence of any possible or appropriate mitigation the development would be contrary to adopted policies.

The unauthorised development is therefore considered contrary to: Policies HE2, HE3, KS1, KS2, KS3, ME1, ME2, PC4 and PC6 of the Core Strategy; Saved Policy TODEV2 of the East Dorset Local Plan 2002; policies 84, 137, 148, 149, 174 to and including 182 and 185 of the National Planning Policy Framework and; Dorset Heathlands Planning Framework 2020-2025.

Whilst the imposition of conditions may mitigate some of the harmful impacts identified

it is considered that planning permission would not be granted for the unauthorised development as conditions could not overcome all the adverse impacts identified above.

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

Permanently:

A. Cease* the use of the Land for the stationing of caravans (with and without awnings), motorhomes, campervans, trailer-tents and tents for the purposes of human habitation

*This notice does not affect any existing use rights or uses that are not development of land 'or any applicable permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015.

B. Cease the use of the Land for the storage of caravans

C. Demolish and remove from the Land, all:

- i. toilet and shower blocks including associated decking and fencing;
- ii. electrical hook-up equipment;
- iii. fire hydrants;
- iv. water / waste water facilities
- v. location signs

6. **TIME FOR COMPLIANCE**

3 Months after this Notice takes effect.

7. **WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on the 4th January 2023, unless an appeal is made against it beforehand.

DATED : 4th October 2022

Signed :



Mike Garrity
Head of Planning

On behalf of: Dorset Council
County Hall
Colliton Park
Dorchester
Dorset
DT1 1XJ

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. Please go to <https://www.gov.uk/appeal-enforcement-notice> whereby you can obtain information about how you can appeal this Notice.

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.

EXPLANATORY NOTE

Your attention is drawn to the provisions of Sections 171A, 171B and 172-177 of the Town and Country Planning Act 1990, as follows:-

S.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.

S.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

- (3) taken after the end of the period of four years beginning with the date of the breach. 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.

S.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

S.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
- (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 has 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

S.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.
- (3) An appeal under this section shall be made either –
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or
 - (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing –
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering an 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 in writing; and
 - (b) continues so to occupy the land when the appeal is brought.

S.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.
 - (4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under s.289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.
 - (5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
 - (6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.
 - (7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

S.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 the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the enforcement notice under

- paragraph (b) of that subsection, he need not comply with section 175(3).
- (5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

S. 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 of 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.
- (2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.
- (3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.
- (4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.
- (5A) Where –
- (a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
 - (b) any fee is payable under regulations made by virtue of section 303 in respect

- of the application deemed to be made by virtue of the appeal; and
- (c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,
- then, if 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 of 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.

APPEAL FEE

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 being twice the amount of the fee payable to Dorset Council in respect of an application for planning permission for the matter stated in the Enforcement Notice as constituting the breach of planning control. You should pay the whole fee (£924.00) to the Dorset Council (made payable to Dorset Council). Joint appellants need only pay one set of fees.

GROUND(S) OF APPEAL

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.

