

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: SELBY DISTRICT COUNCIL

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at A63 – A1 junction, Selby Road, Monk Fryston, North Yorkshire 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 material change of use of land from agricultural land to a residential caravan site, including the stationing of caravans for residential use; stationing of portable toilets; the creation/formation of access tracks, roads, footpaths and hardstandings; the stationing of plant machinery to facilitate the residential use; the stationing of vehicles associated with the residential use; the stationing of other items and residential paraphernalia associated with the residential use; and the erection of fencing around plots.

4. REASONS FOR ISSUING THIS NOTICE

The change of use from agricultural land to a residential caravan site amounts a material change of use of land within the meaning of Section 55(1) of the above Act and therefore amounts to development requiring formal planning permission. As no formal planning permission has been granted the material change of use of the land from agricultural land to a residential caravan site constitutes a breach of planning control under Section 171A(1)(a) of the above Act. The breach of planning control set out in paragraph 3 above has occurred in the last ten years.

The use of the Land as a residential caravan site and the facilitating operational development which goes hand and hand with the development such as the laying of hard surfaced trackways and bases, the insertion of septic tanks, domestic fencing etc., together with the associated domestic paraphernalia is by virtue of size, scale and design forms an unsympathetic intrusion into the surrounding open countryside. The unauthorised development therefore causes unacceptable harm to the character and visual amenity of the surrounding countryside.

The site access is not considered to meet the Highway Authority's standards is unacceptable and may pose a risk to highway safety.

The Land lies within the West Yorkshire Green Belt and a locally important landscape area as designated in the Local Plan and is surrounded by open countryside.

Policy SP2 of the Selby District Core Strategy Local Plan 2013 stipulates that development in the Green Belt must conform with Policy SP3 of the Core Strategy and national Green Belt policies. Policy SP3 of the Core Strategy states that in accordance with the National Planning Policy Framework (NPPF), within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted. The NPPF goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. There is no evidence before the Council that any very special circumstances exist. There is no evidence in the planning applications and no information was forthcoming from those on site when planning officers attended. Therefore, use of the Land as a residential caravan site is considered to be inappropriate development in the Green Belt as the works do not fall within any of the exceptions of development that is defined as not being inappropriate, and is contrary to the aforementioned Local Plan policies.

The use of the Land as a residential caravan site would reduce the openness of the Green Belt both spatially and visually and therefore such conflict with the fundamental aim of Green Belt policies which is to prevent urban sprawl and keep land permanently open.

Developing the Land erodes, and is harmful to, the attractive rural character of the area and together comprises a significant encroachment into the open countryside, making it contrary to policy ENV1 of the Selby District Local Plan. The unauthorised creation of a residential caravan site in the Green Belt results in a harmful urbanising impact on the character and appearance of the area which is contrary to the aims of Policies SP18 and SP19 of the Core Strategy and Policy ENV1 of the Local Plan.

The Land is within a locally important landscape area, where Policy ENV15 states that priority will be given to the conservation and enhancement of the character and quality of the landscape, with particular attention should be paid to the design, layout, landscaping of the development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.

The Land is outside and a significant distance from any development/settlement boundary, local services or facilities. As such, is considered the unauthorised development is in an unsustainable location.

5. WHAT YOU ARE REQUIRED TO DO

Step 1 Cease the use of the Land as a residential caravan site.

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- Step 2 Cease the use of the Land for the stationing of caravans, plant machinery, vehicles, portaloo's, skips, items and other paraphernalia associated with the residential use.
- Step 3 Cease the importation of any further hardcore, hardstanding, brick, breezeblocks, stone, associated materials on the Land.
- Step 4 Cease any further works in relation to the creation of any further hardstandings or hard surfaces on the Land.
- Step 5 Cease the importation of any drainage and/or water system e.g septic tank on the Land.
- Step 6 Cease any further works in relation to the formation of paths, roadways or works including the provision of sewerage, water and electricity infrastructure on the Land.
- Step 7 Cease the importation of any portable toilets, skips and other items and residential paraphernalia.
- Step 8 Permanently remove from the Land all caravans, plant machinery, vehicles, portable toilets, skips and other items and residential paraphernalia, hardstandings, paths, roadways, fencing, and the provision of electricity, water and sewage for human habitation.

6. TIME FOR COMPLIANCE

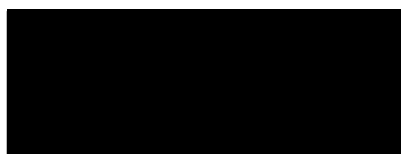
6 calendar months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 3rd day of September 2021, unless an appeal is made against it beforehand.

DATED: 4th Day of August 2021

SIGNED:



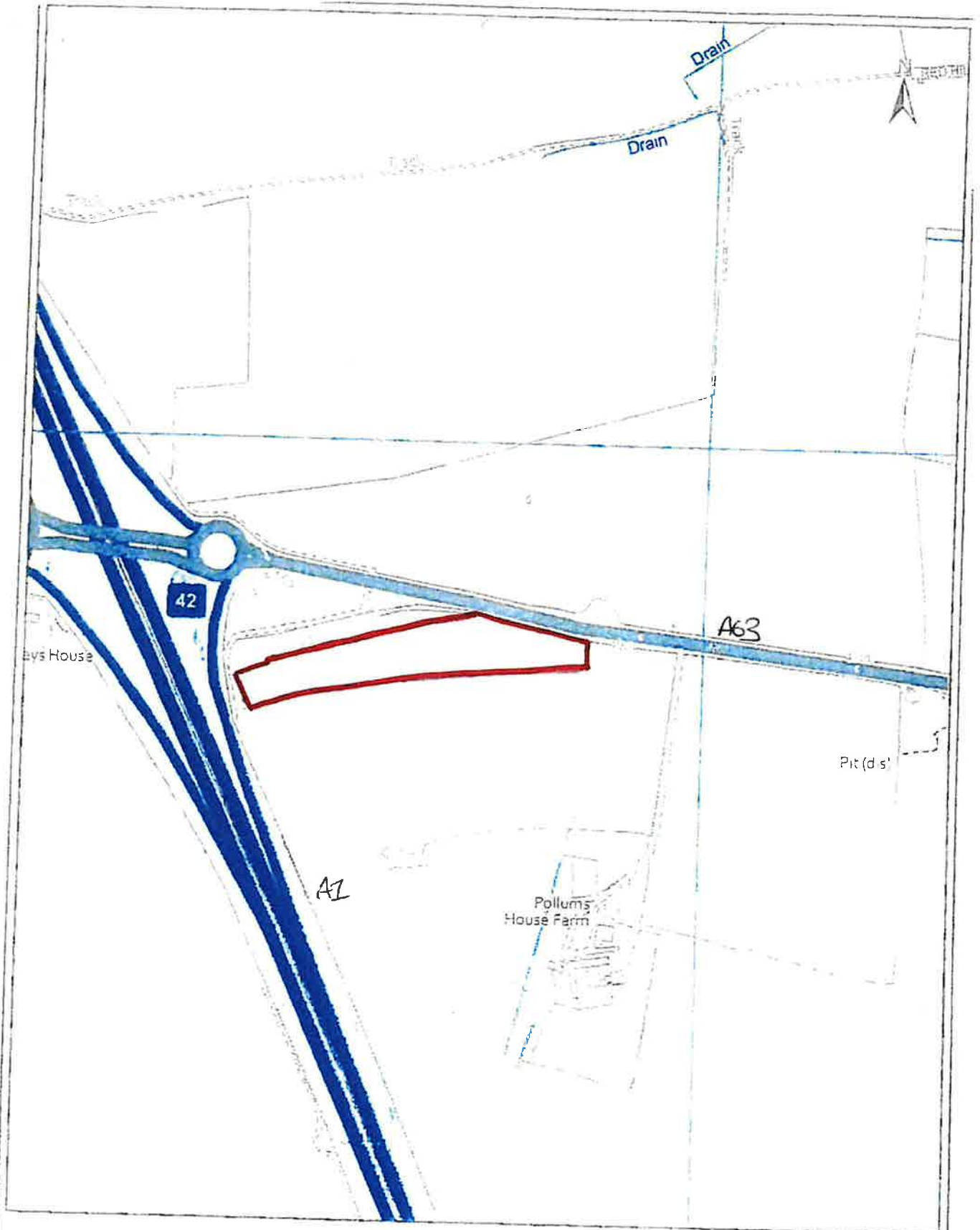
On behalf of SELBY DISTRICT COUNCIL,
CIVIC CENTRE,
DONCASTER ROAD,
SELBY,
NORTH YORKSHIRE,
YO8 9FT

A copy of this Notice has been served on the following:

- 1. Martin Cleary, Land off the A63, Lumby**
- 2. Mr Cleary, Land off the A63, Lumby**
- 3. Daniel Dundon, Land off the A63, Lumby**
- 4. Mr Dundan, Land off the A63, Lumby**
- 5. John Mongan, Land off the A63, Lumby**
- 6. Mr Mongan, Land off the A63, Lumby**
- 7. Johnny Quinn, Land off the A63, Lumby**
- 8. Mr Cawley, Land off the A63, Lumby**
- 9. Mr Collins, Land off the A63, Lumby**
- 10. Occupier of caravans, Land off A63, Lumby**

And displayed on Land off the A63 (Land Registry title number: NYK248502)

The 'Land'



Land adjacent to A53/A1 Junction 42, Selby Road, ~~Monk~~ Fryston

The 'Land'

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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 Secretary of State **before** the date specified in paragraph 7 of the Notice. The enclosed leaflet and covering letter sets out your rights.

PLANNING APPLICATION FEE

If you wish to appeal on ground a of section 174(2) of the TCPA 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 which is double the amount of the normal planning application fee (£462.00). You should pay the fee to Selby District Council. If the fee is not paid then that ground of appeal will not be valid.

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.

Additional information to the grounds or appeal and statutory provisions outlined in the Town and Country Planning Act 1990 (as amended) sections 171A, 171B and 172 to 177 are attached:

Town & Country Planning Act 1990 (as amended)

Sections 171A, 171B and 172 to 177

Section 171A.

- (1) For the purposes of this Act -
 - a. carrying out development without the required planning permission; or
 - b. failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.

- (2) For the purposes of this Act -
 - 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.-

Planning Enforcement Reference: 2021/0214/MWCU

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent -
 - a. the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - b. taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority has taken or purported to take enforcement action in respect of that breach.

Section 172.

- (1) The local planning authority may issue a notice (in this Act referred to as an "enforcement notice") where it appears to them -
 - a. that there has been a breach of planning control, and
 - b. that it is expedient to issue the notice, having regard to the provisions of the development plan to any other materials considerations.
- (2) A copy of an enforcement notice shall be served -
 - a. on the owner and on the occupier of the land to which it relates; and
 - b. on any other persons having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place -
 - a. not more than twenty-eight days after its date of issue; and
 - b. not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

Section 173

- (1) An enforcement notice shall state -
 - a. the matters which appear to the local planning authority to constitute the breach of planning control; and
 - b. the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.
- (2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

Planning Enforcement Reference: 2021/0214/MWCU

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are-

- a. remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its conditions before the breach took place; or
- b. remedying any injury or amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require -

- a. the alteration or removal of any buildings or works:
- b. the carrying out of any building or other operations:
- c. any activity on the land not to be carried on except to the extent specified in the notice: or
- d. the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "replacement building") which, subject to a subsection (7), is as similar as possible to the demolished building.

(7) A replacement building –

- a. must comply with any requirement imposed by any enactment applicable to the construction of buildings:
- b. may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control.
- c. must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (1) and (2)).

(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 -

Planning Enforcement Reference: 2021/0214/MWCU

- a. an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so: and
- b. all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where -

- a. an enforcement notice requires the construction of a replacement building; and
 - b. all the requirements of the notice with respect to that construction have been complied with,
- planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

Section 173A.

- (1) The local planning authority may -
 - a. withdraw an enforcement notice issued by them: or
 - b. waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the powers of the local planning authority to issue a further enforcement notice.

Section 174.

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds -
 - a. that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - b. that those matters have not occurred;
 - c. that those matters (if they occurred) do not constitute a breach of planning control;
 - d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

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- 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 reasonable 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.

(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 license; and
- b. continues so to occupy the land when the appeal is brought.

Section 175.

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may -

- a. require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- b. specify the matters to be included in such a statement;
- c. require the authority or the appellant to give such notice of such an appeal as may be prescribed:

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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 section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

Section 176

(1) On an appeal under section 174 the Secretary of State may -

a. correct any defect, error or mis-description 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-

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- 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.

Section 177

(1) On the determination of an appeal under section 174, the Secretary of State may -

- a. grant planning permission in respect of the matters stated in the enforcement notice as constituted 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 conditions or limitations subject to which planning permission was granted;
- c. determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection

(1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if –

- a. any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and
- b. references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it related to the form of the certificate), (6) and (7) and 194.

(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.

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(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 that fee is not paid with 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.