

Economy, Communities and Corporate Directorate

Geoff Hughes

Mrs Kesri Veloshni Smolas
Llanerch-Y-Coed
Dorstone
Hereford
HR3 6AG

Your Ref:

Our Ref: MT/SL/177138/002623

Please ask for: Mark Tansley

Direct Line / Extension: 01432 261815

Fax:

E-mail: mttansley@herefordshire.gov.uk

4th August 2017

Dear Madam,

TOWN AND COUNTRY PLANNING ACT 1990**ENFORCEMENT NOTICE: LAND AT LLANERCH-Y-COED, DORSTONE, HEREFORD, HR3 6AG**

The Council have issued an Enforcement Notice relating to the above land. In view of your interest in the land, I now enclose, by way of service upon you a copy of the Enforcement Notice together with an explanatory letter provided by the Planning Inspectorate.

Appeal:- Unless an appeal is lodged, the Notice will take effect on 4th September 2017 after which, compliance must be made with its requirements during the period specified. If you wish to appeal please refer to the Planning Inspectorate's letter and act accordingly. I must stress the importance of your doing so before the deadline referred to above.

Fees:- Should you wish to appeal and a fee to the local planning authority is required please send a cheque in the sum of £770.00. This sum is payable to the Herefordshire Council and should be sent to the Assistant Director Economic, Environment & Cultural Services at Council Offices, Plough Lane, Hereford, HR4 0LE.

The following persons named below have also been served with this Enforcement Notice:-

Mr Paul Anthony Smolas
Barclays Bank Plc
Lloyds Bank Plc

Should you have any questions concerning this letter or its enclosures please call the Planning Enforcement Case Officer, Scott Low on telephone number 01432 261814.

Yours faithfully,

MARK TANSLEY**TEAM LEADER**

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: THE COUNTY OF HEREFORDSHIRE 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 Llanerch Y Coed Dorstone Hereford HR3 6AG, shown edged red on the attached plan.

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

Without planning permission the erection of safari tents in the approximate positions marked with a cross on the attached plan.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last four years. The breach is causing harm to the visual amenity, particularly in winter months and is contrary to the Herefordshire Local Plan – Core Strategy Policy LD1.

5. WHAT YOU ARE REQUIRED TO DO

Comply with the following requirements

1. The safari tents shall only be occupied for either holiday's purposes or in connection with the training/corporate event business operated in accordance with the planning permission reference no. 132192/F dated 8/5/15.

2. The safari tents shall be removed from the site by 1st November each year and not re-erected until 28th February of the following year.
3. In the event of the holiday use ceasing, the safari tents including their bases and all associated infrastructure shall be removed within 3 months of the written notice from the Council to do so.
4. Within 1 month of the date that this notice becomes effective a landscaping scheme shall be submitted to the Local Planning Authority for approval. Thereafter the approved scheme shall be implemented before 28th February 2018. This shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.

6. TIME FOR COMPLIANCE

1. 30 days after this notice takes effect
2. 1st November 2017
3. 30 days after the notice takes effect
4. 1 month after this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 4th September 2017 unless an appeal is made against it beforehand.

Dated: 4/8/17

Signed: 

On behalf of: The Herefordshire Council
The Shirehall,
St Peter's Square,
Hereford. HR1 2HX

ANNEX

IMPORTANT. PLEASE READ THE INFORMATION BELOW

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.

171B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any 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.

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.

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 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.

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.

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

(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.

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 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.

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.

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

(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

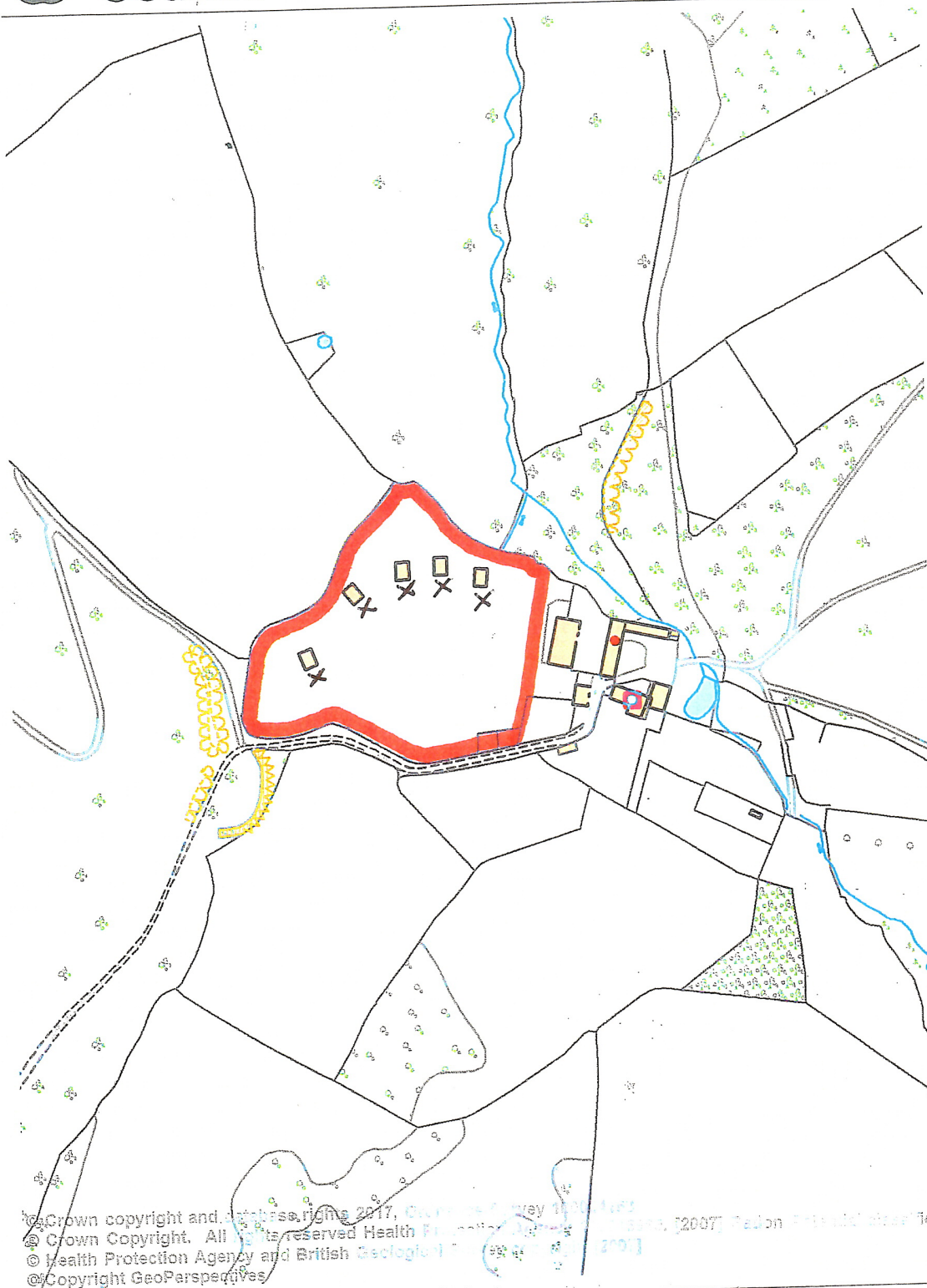
(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if 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.



Location: **LLANERCH-Y-COED, DORSTONE**
Description: **SITE LOCATION PLAN**
Map Scale: 1:2,987

© Crown copyright and database rights 2017, Ordnance Survey 1000

I hereby confirm this is the plan referred to in an
Enforcement Notice relating to Land at Llanerch -Y-Coed
Dorstone, Hereford, HR3 6AG

Signed 
Kevin Bishop - Lead Development Manager



The Planning Inspectorate

CST Room 3/05
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line: 0303 444 5000

THIS IS IMPORTANT

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

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- 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.

