

TR/EN/02/1977

TR/EN/13/76

TOWN AND COUNTRY PLANNING ACT 1971.

Enforcement Notice
(Erection of building without permission)

To: Mr. S. Saltar
of Wells Farm, Northaw Road East,
Cuffley, Herts.

WHEREAS:

1. You are the [owner [and] [occupier] of] [~~a person having an interest in~~] the land situate at and known as **Wells Farm, Northaw Road East, Cuffley, Herts.**

which is more particularly delineated on the attached plan and thereon ~~coloured~~ edged red (hereinafter called "the said land").

2. The **Welwyn Hatfield District Council** (hereinafter called "the Council") are the Local Planning Authority (*inter alia*) for the purposes of the provisions of section 37 of the Town and Country Planning Act 1971 (hereinafter called "the Act of 1971").

3. It appears to the Council that within the period of four years before the date of service of this notice there has been a breach of planning control in that the said land has been developed by the carrying out thereon of building operations, namely the erection of **a two storey building with a mono-pitch roof at Wells Farm, Northaw Road East, Cuffley, Herts. within the area edged red on the attached plan.** (hereinafter called "the said building") without the grant of permission required in that behalf under Part III of the Town and Country Planning Act 1962 or Part III of the Act of 1971.

4. The Council consider it expedient having regard to the provisions of the development plan and to all other material considerations to serve this notice.

5. NOW THEREFORE TAKE NOTICE that in exercise of the powers contained in the said section 87 of the Act of 1971 the Council HEREBY REQUIRE YOU within the period of ~~one~~ calendar month~~s~~ beginning with the date on which this notice takes effect to take the following steps, in order to remedy the said breach of planning control, namely:—

- (1) Demolish the said building.
- (2) Remove from the said land all materials arising from such demolition and restore the said land to its condition before the development took place.

† THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(3) of the Act of 1971, at the expiration of a period of **twenty eight** days after the service thereof upon you.

DATED this **18th** day of **February**, **1977**.
The Secretary,
Welwyn Hatfield District Council,
Council Offices,
The Campus,
Welwyn Garden City,
Herts. (WHA/DEV.2/14/)

(Signed) F. Prescott
F. PRESCOTT, Secretary to Welwyn †
Hatfield District Council
(The officer appointed for this purpose)

(Address to which all communications should be sent.)
* Not less than 28 clear days. See s. 87(8) of the Act of 1971.
† In order to be valid this notice must be served on all persons concerned on the same date. † Insert title of proper officer.
YOUR ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL AGAINST AN ENFORCEMENT NOTICE contained in section 33 of the Act of 1971. Copies of this section and of other relevant sections of the Act are printed overleaf. **IT IS IMPORTANT THAT YOU SHOULD READ THEM.**

EXTRACTS from the TOWN AND COUNTRY PLANNING ACTS

Appeal against enforcement notice

88.—(1) A person on whom an enforcement notice is served, or any other person having an interest in the land may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

- (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
 - (b) that the matters alleged in the notice do not constitute a breach of planning control;
 - (c) in the case of a notice which, by virtue of section 87 (3) of this Act, may be served only within the period of four years from the date of the breach of planning control to which the notice relates, that that period has elapsed at the date of service;
 - (d) in the case of a notice not falling within paragraph (c) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;
 - (e) that the enforcement notice was not served as required by section 87 (4) of this Act;
 - (f) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;
 - (g) that the specified period for compliance with the notice falls short of what should reasonably be allowed.
- (2) An appeal under this section shall be made by notice in writing to the Secretary of State, which shall indicate the grounds of the appeal and state the facts on which it is based; and on any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

- (4) On an appeal under this section—
- (a) the Secretary of State may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material;
 - (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 87 (4) of this Act to be served with the 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.

(5) On the determination of an appeal under this section, the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant; and the Secretary of State may—

- (a) grant planning permission for the development to which the enforcement notice relates or, as the case may be, discharge any condition or limitation subject to which planning permission for that development was granted;
 - (b) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use thereof and to any planning permission relating to the land.
- (6) In considering whether to grant planning permission under subsection (5) of this section, 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 any other material considerations; and any planning permission granted by him under that subsection may—

- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
- (b) be granted subject to such conditions as the Secretary of State thinks fit; and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(7) Where an appeal against an enforcement notice is brought under this section, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (5) of this section, the following provisions shall have effect—

- (a) any planning permission granted thereunder shall be treated as granted on the said application;
- (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
- (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.

(8) On an appeal under this section against an enforcement notice relating to anything done in contravention of a condition to which section 71 or 82 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

(9) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

Penalties for non-compliance with enforcement notice

89.—(1) Subject to the provisions of this section, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine.

(2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—

- (a) the subsequent owner may be convicted of the offence; and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

(4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—

- (a) on summary conviction to a fine not exceeding £50 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
- (b) on conviction on indictment to a fine.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the use is so continued, or on conviction on indictment to a fine.

(6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or such extended period as the local planning authority may allow for compliance with the notice.

Execution and cost of works required by enforcement notice

91.—(1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the local planning authority may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

NOTE.

Attention is also directed to section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.

