

Mr K Pitt
KP Property Developments Limited
Hastingwood Farm
Hastingwood
Harlow
Essex
CM17 9JX

**Planning and Building Control
Services
Civic Centre
The Water Gardens
Harlow
Essex
CM20 1WG**

Contact: Ganesh Gnanamoorthy
Telephone: 01279 446 593
Email:
ganesh.gnanamoorthy@harlow.gov.uk

Our Ref. Land adj. Piries Point
Your Ref.
Date: 22 December 2017

Dear Mr Pitt,

**Town and Country Planning Act 1990 Section 172
ENFORCEMENT NOTICE
IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY.**

Re: Land Adjoining Piries Point, Tye Green Village, Harlow, Essex, CM18 6QZ.

The Council has issued an Enforcement Notice relating to the above land and we now serve on you a copy of that Notice, in view of your interest in the land.

Unless an appeal is made to the Secretary of State as described in the Annex to the Enforcement Notice, the Notice will take effect on the 1st February 2018 and you must then ensure that the required steps for which you may be held responsible are taken within the period specified in the Notice.

You have a right to appeal and, if you wish to appeal against the Notice, you should read the Important Note from the Planning Inspectorate enclosed herewith. The appeal can only be made on the grounds set out in Section 174, and it must be accompanied by a statement of the grounds and the facts on which the appeal is based.

In most cases a fee will be payable for the deemed planning application that arises on an enforcement appeal, the fee in this instance will be £344.

Your appeal should be sent to the address shown on the appeal form and must be received by the Planning Inspectorate before the date given in the Enforcement Notice when the Notice takes effect.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Philpott', with a large, sweeping flourish at the end.

Mark Philpott
Development Manager.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

Land adjoining Piries Point, Tye Green Village, Harlow, Essex, CM18 6QZ

ISSUED BY: Harlow District Council

- 1. THIS NOTICE** is issued by the Council because it appears to them that there have been breaches of planning control, within paragraphs (a) and (b) 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 adjoining Piries Point, Harlow, Essex, CM18 6QZ, shown edged in red on the attached plan.
- 3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

The installation of two rooflights to the western (rear) elevation of the dwellinghouse on the land identified above.
- 4. REASONS FOR ISSUING THIS NOTICE**

 - (1) The property on the land identified above was granted planning permission under reference HW/FUL/15/00285. Condition 7 of that permission removed permitted development rights from the application site with respect to Part 1 and Classes A to H of Part 14 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015. Given the condition attached to the permission, the northernmost rooflight installed in the western (rear) elevation of the dwellinghouse requires planning permission and is a breach of planning control under paragraph (a) of section 171A(1) of the above Act. The rooflight results in a loss of privacy to and overlooking of the occupiers of adjacent properties to the west of the land, contrary to policy BE1 of the Adopted Replacement Harlow Local Plan (ARHLP) (2006); section 4.12 of the Harlow Design Guide SPD (2011); Planning Practice Guidance (PPG); and the National Planning Policy Framework (NPPF) (2012).
 - (2) The southernmost rooflight in the western (rear) elevation of the dwellinghouse was required to be non-opening and obscure glazed and thereafter permanently retained in that form by Condition 6 of the planning permission. The rooflight installed is clear glazed. The condition was attached to protect the amenities of adjoining properties. The rooflight window, as installed, is in breach of Condition 6 and therefore is a breach of planning control under paragraph (b) of section 171A(1) of the above Act. The rooflight results in a loss of privacy to and overlooking of the occupiers

of adjacent properties to the west of the land, contrary to policy BE1 of the Adopted Replacement Harlow Local Plan (ARHLP) (2006); section 4.12 of the Harlow Design Guide SPD (2011); Planning Practice Guidance (PPG); and the National Planning Policy Framework (NPPF) (2012).

- (3) The works have been present for less than 4 years and are therefore not immune from enforcement action.
- (4) It is considered expedient to issue the enforcement notice to remedy the injury to amenity caused from the unauthorised development.

5. WHAT YOU ARE REQUIRED TO DO

Fix shut and obscure glaze both rooflights with obscure glazing and permanently retain the rooflights in that form thereafter.

6. TIME FOR COMPLIANCE

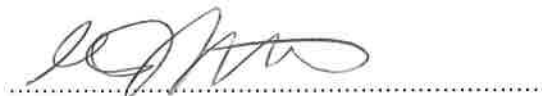
Two months after this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

The Notice takes effect on 1st February 2018, unless an appeal is made against it beforehand.

Dated: 22nd December 2017

Signed:



**Mark Philpott
Development Manager**

**On behalf of Dianne Cooper
Planning & Building Control Manager
(Duly Authorised Officer)**

On behalf of: **Harlow District Council
Planning & Building Control Services
Civic Centre
The Water Gardens
Harlow
Essex CM20 1WG**

Case Officer: **Ganesh Gnanamoorthy
Planning Officer
01279 446593**

ANNEX

1. YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal: <http://www.planningportal.gov.uk/uploads/pins/enfinfosheet.pdf>

2. 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 RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal: <http://www.planningportal.gov.uk/uploads/pins/enfinfosheet.pdf>

GROUNDINGS OF APPEAL

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more 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.

Not all the grounds may be relevant to you.

PLANNING APPLICATION FEE

Should you wish to appeal on ground (a) – that planning permission should be granted for unauthorised development – then a fee of **£172.00** is payable both to the Secretary of State and to the Council, making the total fees payable **£344.00** if the fees are not paid then that ground of appeal will not be valid.

STATEMENT ON GROUNDS OF APPEAL

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

RECIPIENTS OF THE ENFORCEMENT NOTICE

The names and addresses of all persons on whom the Enforcement Notice has been served:

KP Property Developments Limited, Hastingwood Farm, Hastingwood Road,
Hastingwood, Harlow, Essex, CM17 9JX

RELEVANT STATUTORY PROVISIONS RELATING TO THIS ENFORCEMENT NOTICE

PLEASE READ THESE NOTES CAREFULLY

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.

171 B — 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 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 section (1)(a) if it enables any person on whom a copy of it is served to know what these 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 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 the 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 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 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 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 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 those matters have not occurred
 - (c) that the 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
- (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 in writing; 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.
- (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 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.

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 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 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.

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
- 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.

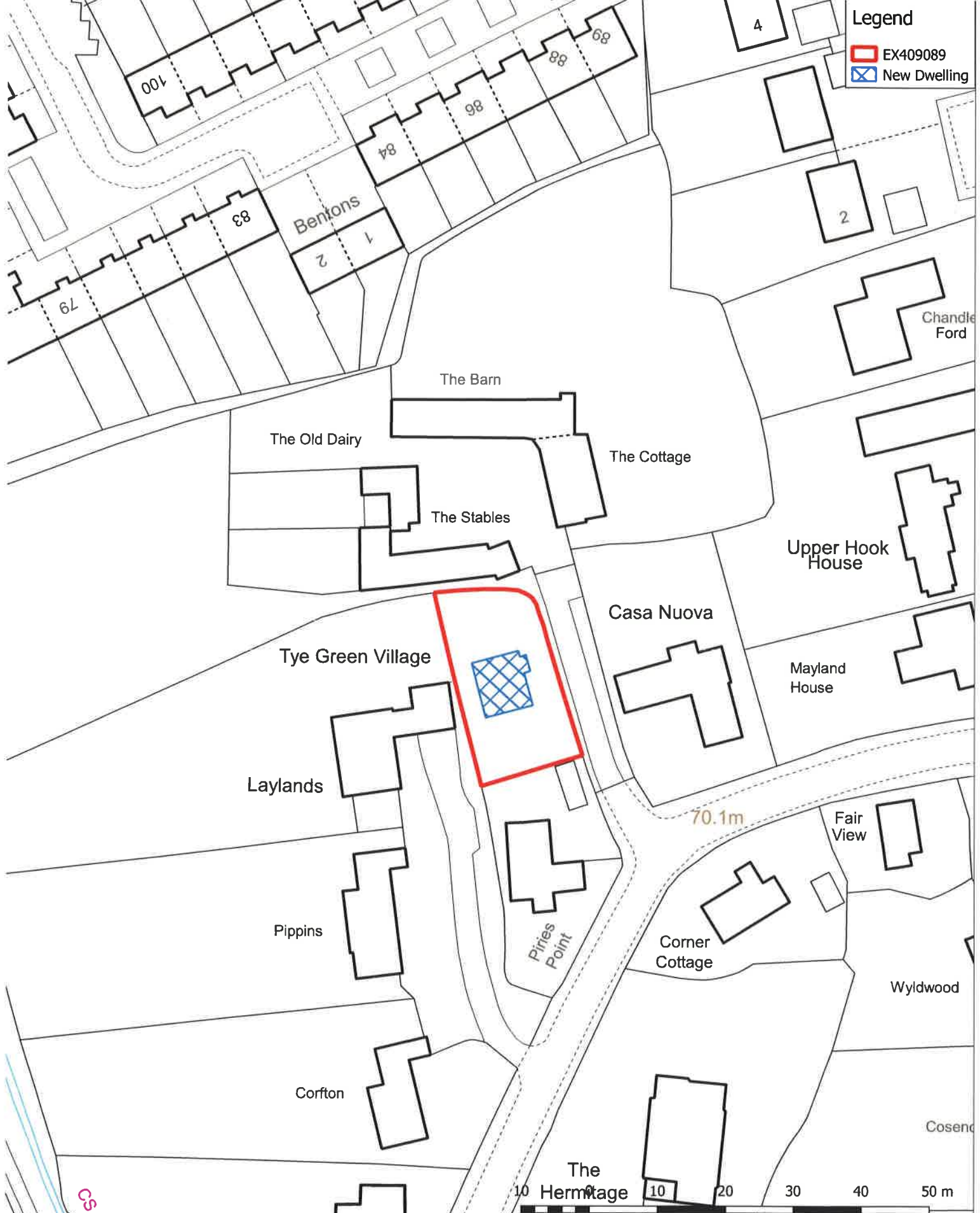
In exceptional circumstances you may give notice of appeal by letter. You should include:-

- 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.

Legend

-  EX409089
-  New Dwelling



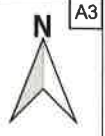
Harlow Council
Working together for Harlow

Harlow Council
 Civic Centre
 The Water Gardens
 Harlow
 Essex, CM20 1WG
 Tel: 01279 446655
 Email: contact@harlow.gov.uk

Title:
Land Adjacent to Piries Point
 Harlow
 Essex

Scale: 1:500 Date: 22/12/2017 Drawn By: Oliver Gillard Drawing number: GIM4508-295

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