

FILE COPY

HSBC Bank Plc
Sheffield Securities Processing Centre
PO BOX 3924
Sheffield
S1 9BD

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

Contact: Elizabeth Fitzgerald
Telephone: 01279 446593
Fax: 01279 446639
Email:
elizabeth.fitzgerald@harlow.gov.uk

Our Ref. HW/EN/11/00023
Your Ref.
Date: 11 June 2012

Dear Sirs,

RE: BREACH OF PLANNING CONTROL AT PLOTS 14 & 15, SKINS LANE, ROYDON, HARLOW.

We write in respect of the above Plots and to serve an Enforcement Notice on you in respect of the development carried out at the above site without the benefit of planning permission.

We enclose herewith an Enforcement Notice under the Town & Country Planning Act 1990.

You have 28 days to appeal against the Notice, after which the Notice comes into effect and you required to comply with the requirements set out in paragraph 5. Please note that should you fail to comply within 6 months of the date of the Notice you will be committing a criminal offence, the penalty for which is set out in the Annex to the Notice.

In the circumstances we anticipate your urgent response, in order to avoid legal action against you.

Yours sincerely,



Elizabeth Fitzgerald
Development Control Manager.

Cc: Owner/Occupier – Plots 14 & 15, Skins Lane, Roydon – BY HAND
David Ray Developments Ltd
Mr Henry Simmons.

FILE COPY

**David Ray Developments Ltd
20 Breaston Park Homes
Draycott Road
Breaston
Derbyshire
DE72 3DA**

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

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Elizabeth Fitzgerald
Development Control Manager.

Cc: Owner/Occupier – Plots 14 & 15, Skins Lane, Roydon – BY HAND

FILE COPY

**Mr Henry Simmons
42 Esbies Estate
Station Road
Sawbridgeworth
Hertfordshire
CM21 9JE**

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

Contact: Elizabeth Fitzgerald
Telephone: 01279 446593
Fax: 01279 446639
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Yours sincerely,



Elizabeth Fitzgerald
Development Control Manager,

Cc: Owner/Occupier – Plots 14 & 15, Skins Lane, Roydon – BY HAND

**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: HARLOW COUNCIL

1. THIS NOTICE is issued by the Council because it appears 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. The Council considers 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 AFFECTED BY THIS NOTICE

Plots 14 and 15, Skins Lane, Roydon, Harlow, shown edged red on the attached plan.

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission the change of use of the said land to the recreational use of a chalet.

4. REASONS FOR ISSUING THE NOTICE

1. It appears to the Council that the above breach of planning control has occurred within the last ten years.
2. It is expedient to issue this notice because the Council considers the change of use of the said land to the recreational use of a chalet would exacerbate the current highway safety issues at Skins Lane and lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety and contrary to the ECC Highway Authority's Development Management Policies 2011.
3. It is also contrary to the provisions of the Adopted Replacement Local Plan policy BE1 and the provisions of the National Planning Policy Framework.
4. It is also considered expedient to issue the notice, because the Council does not consider that planning permission should be granted, because planning conditions could not overcome these objections.

5. The Council has considered the Human Rights of the persons who have undertaken the unauthorised development against the public interest. It considers that Articles 8 and First Protocol Article 1 of the First Schedule to the Human Rights Act 1998 need to be considered in this case. The persons undertaking the development are entitled to their rights of privacy, home and family life, and to the protection of their possessions. These rights are qualified to the extent that if the public interest, in this case, the control of unregulated development, is or may be harmed. Enforcement action is justified. Further, the Council has considered whether any lesser measures than those required by this notice would effect a satisfactory rectification of the breach of planning control, but has not identified any such lesser measures.
6. It is expedient to issue this notice because the continued use of the said land for the recreational use of a chalet is unacceptable and the issue of an enforcement notice, seeking the cessation of the use and the removal of all ancillary development associated with that use is the most expedient action necessary to remedy the breach of planning control that has occurred.

5. WHAT YOU ARE REQUIRED TO DO

1. Cease the use of the said land for the recreational use of a chalet.
2. Remove the chalet and all ancillary development associated with the recreational use of the chalet from the land, including the removal of the hard standing, fencing, gates and storage container from the said land.

6. TIME FOR COMPLIANCE:

6 months after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 9th July 2012, unless an appeal is made against it beforehand.

Dated: 11 JUNE 2012


Head of Planning

Harlow District Council, Civic Centre, The Water Gardens, Harlow, Essex

Site Location Plan

Plots 14-15



Promap

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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. Your rights of appeal and the process by which you may make an appeal are set out in the enclosed "Enforcement Information Sheet" and "Planning Inspectorate Leaflet".

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.

SERVICE

Copies of this notice have been served on: -

David Ray Developments Ltd
HSBC Bank PLC
Mr Henry Simmons
The Owner/Occupier of the site – by hand.

Continuation of Annex **Relevant Planning Policies**

ECC Highways Authority Development Management Policies 2011
Policy BE1 of the Replacement Harlow Local Plan 2006.

ENFORCEMENT INFORMATION SHEET

- 1. YOU HAVE A RIGHT OF APPEAL AGAINST THE ENFORCEMENT NOTICE.**
- 2. NOTICE OF APPEAL MUST BE MADE IN WRITING TO AND RECEIVED BY THE SECRETARY OF STATE BEFORE THE DATE THE NOTICE COMES INTO EFFECT AS SPECIFIED ON THE NOTICE.**
- 3. NOTICE OF APPEALS MAY BE MADE BY ELECTRONIC COMMUNICATIONS.**
- 4. THE GROUNDS ON WHICH AN APPEAL MAY BE MADE ARE SET OUT IN S172 (4) BELOW.**
- 5. YOU MUST SUBMIT TO THE SECRETARY OF STATE, EITHER WHEN GIVING NOTICE OF APPEAL OR WITHIN 14 DAYS FROM WHEN THE SECRETARY OF STATE GIVES A NOTICE REQUIRING IT, A STATEMENT IN WRITING SPECIFYING THE GROUNDS OF APPEAL AND STATING BRIEFLY THE FACTS ON WHICH YOU INTEND TO SUPPORT EACH GROUND (SEE SECTION 174 BELOW).**
- 6. A LIST OF THE NAMES AND ADDRESSES OF PERSONS ON WHOM A COPY OF THE ENFORCEMENT NOTICE IS SERVED IS APPENDED TO THE ENFORCEMENT NOTICE.**

**COPY OF SECTIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990
REQUIRED TO ACCOMPANY AN ENFORCEMENT NOTICE AS REQUIRED BY
REGULATION 5 OF THE TOWN AND COUNTRY PLANNING (ENFORCEMENT
NOTICES AND APPEALS) (ENGLAND) REGULATIONS 2002**

The regulations set out:-

- **Expressions used in connection with enforcement**
- **Time limits for the service of an Enforcement Notice**
- **Issue of enforcement notice**
- **The contents and effect of the Notice**
- **Variation and withdrawal of Notices**
- **Appeals against enforcement notices**
- **Appeals: supplementary provisions**
- **General provisions relating to determination of appeals**
- **Grant or modification of planning permission on appeals against enforcement notices**

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."

(2) If, in the case of any breach of planning control, the time for issuing an enforcement notice has expired, before the coming into force of this section, by virtue of section 172(4)(b) of the principal Act (as originally enacted), nothing in this section enables any enforcement action to be taken in respect of the 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 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 be 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.

176 General provisions relating to determination of appeals

(1) On the determination of an appeal under section 174, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

(2) On such an appeal if the Secretary of State is satisfied that to do so will not cause the appellant or the local planning authority injustice, he may—

- (a) correct any informality, defect or error in the enforcement notice; or
- (b) give directions for varying its terms.

(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 for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) 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 of it and to any planning permission relating to it.

(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) Any planning permission granted by the Secretary of State under subsection (1) 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 section 72(1) and (5) shall apply with any necessary modifications in relation to the grant of permission under subsection (1) as it applies to a grant of permission under section 70(1).

(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 for the development to which the notice relates.

“(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.