

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: STRATFORD-ON-AVON DISTRICT COUNCIL ("the Council")

1. **THIS IS A FORMAL NOTICE** which 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 enclosures to which it refers contain important additional information.

2. **THE LAND AFFECTED**

Land at and adjoining Wood View, 177, Binton, Stratford-upon-Avon, Warwickshire, CV37 9TF ("the Land"), shown edged red on the attached plan ("the Plan").

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, the following changes of use resulting in a new single planning unit with a mixed use comprising dwelling with associated garden, unauthorised landscape gardening business and unauthorised extension of domestic garden:

- 1) change of use of the Land (as indicated by the approximate location marked 'A' on the Plan) from agricultural to domestic garden use in connection with residential use of dwelling known as Wood View;
- 2) the change of use of the Land (as indicated by the approximate location marked 'B' on the Plan) from agricultural use to mixed use of domestic garden use and use in connection with a landscape gardening business;
- 3) the change of use of the Land (as indicated by the approximate location marked 'C' on the Plan) from domestic garden use (in connection with the dwelling known as Wood View), to a mixed use of domestic garden and use in connection with a landscape gardening business;

Without planning permission the erection of a building (in the approximate location marked 'D' on the Plan) for use as an office in connection the unauthorised landscape gardening business and for private homeworking purposes

4. **REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last 10 years.

The unauthorised change of use of land to domestic and business purposes, does not fall within any of the acceptable types of development within the Countryside, listed in Policy AS.10 of the Core Strategy. The development is not considered to be fully justified or offer significant benefits to the local area. The principle of the development is therefore considered to represent an unsustainable form of development contrary to Policies CS.1, CS.22 and AS.10 of the adopted Stratford-on-Avon District Core Strategy 2011-2031.

The unauthorised development extends the domestic garden associated with the dwelling known as Wood View into the open countryside which has a domesticating impact on the rural character of the immediate locality. Whilst currently there are no buildings in this location, any residential paraphernalia will have a domesticating impact. If left unrestricted, permitted development rights will eventually result in the possibility of outbuildings being erected within the land, which will further cause harm to the character of the area, by resulting in the sporadic expansion of the built form. On this basis, the development is considered to result in harm, which would be contrary to Policies CS.9, CS.5 and AS.10 of the Core Strategy and Government guidance contained within the National Planning Policy Framework and Stratford on Avon District Council Design Guide.

The unauthorised use of the Land in connection with a landscape gardening business, which includes a storage compound, has resulted in an unsightly blot on the landscape, with (inter alia) outside storage of materials; shipping containers; the storage of waste; and parked vehicles. This business use of the site has had an urbanising impact on the rural character of the site and its agricultural setting. On this basis, the development is considered to result in harm, which would be contrary to Policies CS.9, CS.5 and AS.10 of the Core Strategy and Government guidance contained within the National Planning Policy Framework and Stratford on Avon District Council Design Guide.

The building (in the south eastern corner of the site), is being used as an office in connection with the unauthorised landscape gardening business. The building does not fall within any of the acceptable types of development within the Countryside, listed in Policy AS.10 of the Core Strategy. The development is not considered to be fully justified or offer significant benefits to the local area. The development is therefore considered to represent an unsustainable form of development contrary to Policies CS.1, CS.22 and AS.10 of the adopted Stratford-on-Avon District Core Strategy 2011-2031.

The building (in the south eastern corner of the site), is considered to result in new development in a prominent position adjacent to a well-used highway. Given the siting of the outbuilding and its visibility from the highway, it is considered to detract from the character of the area and would be contrary to Policies CS.9 and AS.10 of the adopted Stratford-on-Avon District Core Strategy 2011-2031; and Government guidance contained within the National Planning Policy Framework and National Design Guide.

In the absence of a planning application or legal agreement to control the activities associated with the unauthorised landscape gardening business, it is considered that there is the potential for there to be a detrimental impact on the residential amenity of nearby residential properties through noise and disturbance. The use is, therefore, contrary to Policies CS.9 and AS.10 of the adopted Stratford-on-Avon District Core Strategy 2011-2031.

The District Council does not consider that planning permission should be granted because planning conditions could not overcome the objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- a) Remove all materials being stored on the Land in connection with the landscape gardening business and remove the storage container from the Land
- b) Cease the use of the land marked 'A' on the Plan for domestic garden purposes and thereafter only use this parcel of land for agricultural purposes
- c) Cease the use of the land marked 'B' on the Plan for domestic garden purposes and in connection with the landscape gardening business; and thereafter only use this parcel of land for agricultural purposes
- d) Cease the use of the land marked 'C' on the Plan for use in connection with the landscape gardening business; and thereafter only use this parcel of land for domestic purposes associated with the residential use of the dwelling known as Wood View
- e) Demolish the building shown in the approximate location of 'D' on the Plan and remove all associated materials from the Land.


6. TIME FOR COMPLIANCE

- a) Within 4 months from the date this Notice takes effect
- b) Within 4 months from the date this Notice takes effect
- c) Within 4 months from the date this Notice takes effect
- d) Within 4 months from the date this Notice takes effect
- e) Within 4 months from the date this Notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **11 September 2023** unless an appeal is made against it beforehand.

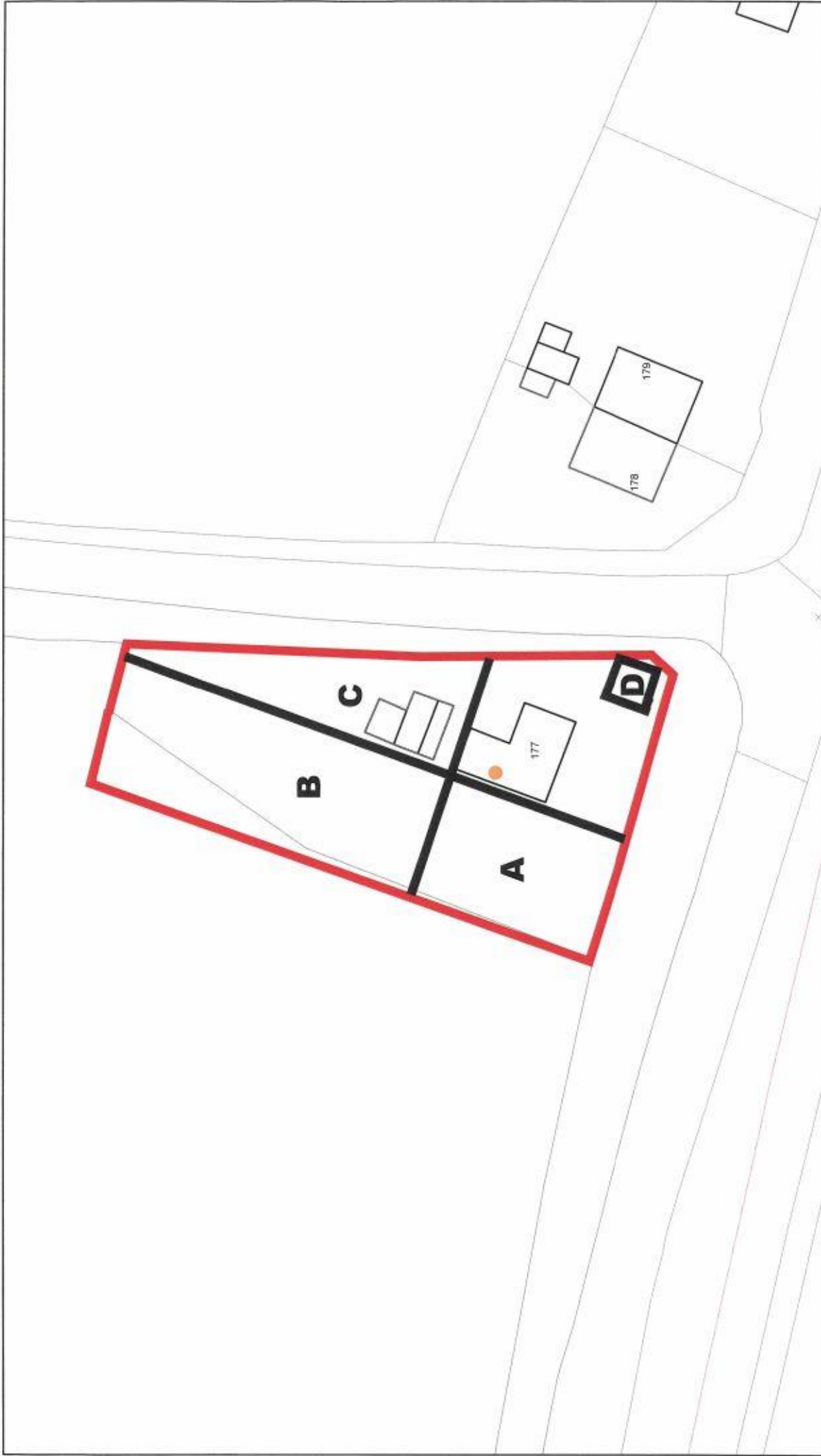
Dated: 4TH AUGUST 2023

Signed..... 

Clare Eynon - Planning Manager
(Performance, Appeals & Enforcement)

On behalf of:-

Stratford-on-Avon District Council,
Elizabeth House,
Church Street,
STRATFORD-UPON-AVON,
Warwickshire
CV37 6HX



Legend

Wood View, 177 Binton, Stratford-Upon-Avon, CV37 9TF



Scale 1:501
© Crown copyright and database rights 2011 onwards
Ordnance Survey 100024287



ANNEX

YOUR RIGHT OF APPEAL

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **11 September 2023**.

Under 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 of these grounds may be relevant to you.

If you decide to appeal against the enforcement notice, you should set out all grounds for making your appeal and provide supporting facts for each ground when making the appeal.

If ground (a) is not pleaded at the very beginning the Planning Inspectorate will not delay the processing of the appeal.

If you want the planning merits of the development to be considered – known as the “deemed planning application” – you must plead ground (a) and pay the fee of £924 for the deemed application. You should pay the full amount of the fee to Stratford-on-Avon District Council.

If this is not done, the planning merits and any subsequent ground (a) appeal (Ground (a) - that planning permission should be granted (or that the condition or limitation referred to in the enforcement notice should be removed) cannot be considered by the Inspector. The appeal will only be determined on the grounds of appeal as submitted on the appeal form.

If you submit a retrospective planning application after the enforcement notice is issued, the Local Planning Authority may decline to determine your application under section 70C of the Act (as amended). You cannot appeal against a decision to decline to determine your planning application. Therefore if the Local Planning Authority does decline any retrospective application the only way you could ask for the planning merits of the alleged development to be considered is to appeal on ground (a) on your enforcement appeal and pay the fee.

However if you (or anyone else) had already submitted a retrospective planning application and the enforcement notice is issued before the time to decide the application has expired, no-one can appeal against the enforcement notice on ground (a). Although a planning appeal can be pursued if the Local Planning Authority refuse or fail to determine the planning application. This is specified at section 174 (2A)(b) of the Act (as amended).

The Planning Inspectorate has published new guidance on how to Appeal against an Enforcement Notice.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on **11 September 2023** 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 the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

LIST OF NAMES AND ADDRESSES OF THE PERSONS ON WHOM A COPY OF THE ENFORCEMENT NOTICE HAS BEEN SERVED

Adrian Marshall Fisher
177, Binton
Stratford-Upon-Avon
Warwickshire
CV37 9TF

Katy Marie Fisher
177, Binton
Stratford-Upon-Avon
Warwickshire
CV37 9TF

