

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION
ACT 1991)

ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE

To: Wendy Ann Hubbard, Elsinore, Cottagers Plot, Laceby, Grimsby,
North East Lincolnshire, DN37 7DX

ISSUED BY: NORTH EAST LINCOLNSHIRE COUNCIL

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears to it that there has been a breach of planning control, under section 171A(1)(a) of the above act, at the land described below. It 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

Land at Elsinore, Cottagers Plot, Laceby, Grimsby, North East Lincolnshire, DN37 7DX shown edged red on the attached plan ("the land")

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

Without planning permission the change of use of the property from a residential dwelling to a mixed use comprising residential dwelling, garden services business, landscaping business and log processing and sales business

4. REASONS FOR ISSUING THIS NOTICE

4.1 It appears that the breach of the above planning control has occurred within the last ten years.

4.2 The unauthorised change of use to a mixed use of residential dwelling, garden services business, landscaping business and log processing and sales business is contrary to advice in the National Planning Policy Framework and Policy 2 and 38 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018) in that the location and size of the premises results in an unacceptable loss in the amenity that nearby residential properties should reasonably be expected to enjoy by virtue of noise and disturbance. This also has an adverse impact on the character and appearance of the Conservation Area.

4.3 The Council does not consider that planning permission should be given because planning conditions could not overcome these objections. .

5. WHAT YOU ARE REQUIRED TO DO

5.1 Cease the use of the land as a mixed use comprising residential dwelling, garden services business, landscaping business and log processing and sales business and return the use of the land to that of a residential dwelling.

5.2 Remove all plant, machinery and other items associated with the businesses being run from the address.

6. TIME FOR COMPLIANCE

1 month after this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 2nd June 2018 unless an appeal is made against it beforehand.

Dated: 1st May 2018

Signed: 

Angela Blake

Director of Economy and Growth
North East Lincolnshire Borough Council
Municipal Offices
Town Hall Square
Grimsby
North East Lincolnshire
DN31 1HU

(North East Lincolnshire Council has issued an enforcement notice relating to land at Elsinore, Cottagers Plot, Laceby, Grimsby, North East Lincolnshire, DN37 7DX and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of this Annex.)

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this enforcement notice, but any appeal must be **received** by the Planning Inspectorate (PINS) (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be delivered to the Planning Inspectorate) **before** the date specified in paragraph 7 of the notice.

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

- Online at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs).
- By getting enforcement appeal forms from the Planning Inspectorate on 0303 444 5000 or by e-mailing the Planning Inspectorate at enquiries@pins.gsi.gov.uk.

You MUST make sure that PINS 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.
- The effective date of the enforcement notice.

PINS MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

The Planning Inspectorate's address and contact details are as follows:

The Planning Inspectorate

CST Room 3/13

Temple Quay House

2 The Square

BRISTOL BS1 6PN

Direct line: 0303 444 5000

Fax number: 0117 372 8782

Under section 174 of the TCPA 1990 you may appeal on one or more of the following grounds 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.

- Those matters have not occurred.
- Those matters (if they have occurred) do not constitute a breach of planning control.
- 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.
- Copies of the enforcement notice were not served as required by section 172 of the TCPA 1990.
- 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 such breach.
- Any period specified in the notice in accordance with section 173(9) of the TCPA 1990 falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under ground (a) of section 174(2) of the TCPA 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £462.00. You should pay the fee to North East Lincolnshire Council.

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the [Secretary of State **OR** National Assembly] will send you a notice requiring you to do so within 14 days.

A copy of sections 171A, 171B and 172 to 177 of the TCPA 1990 are attached for your information.

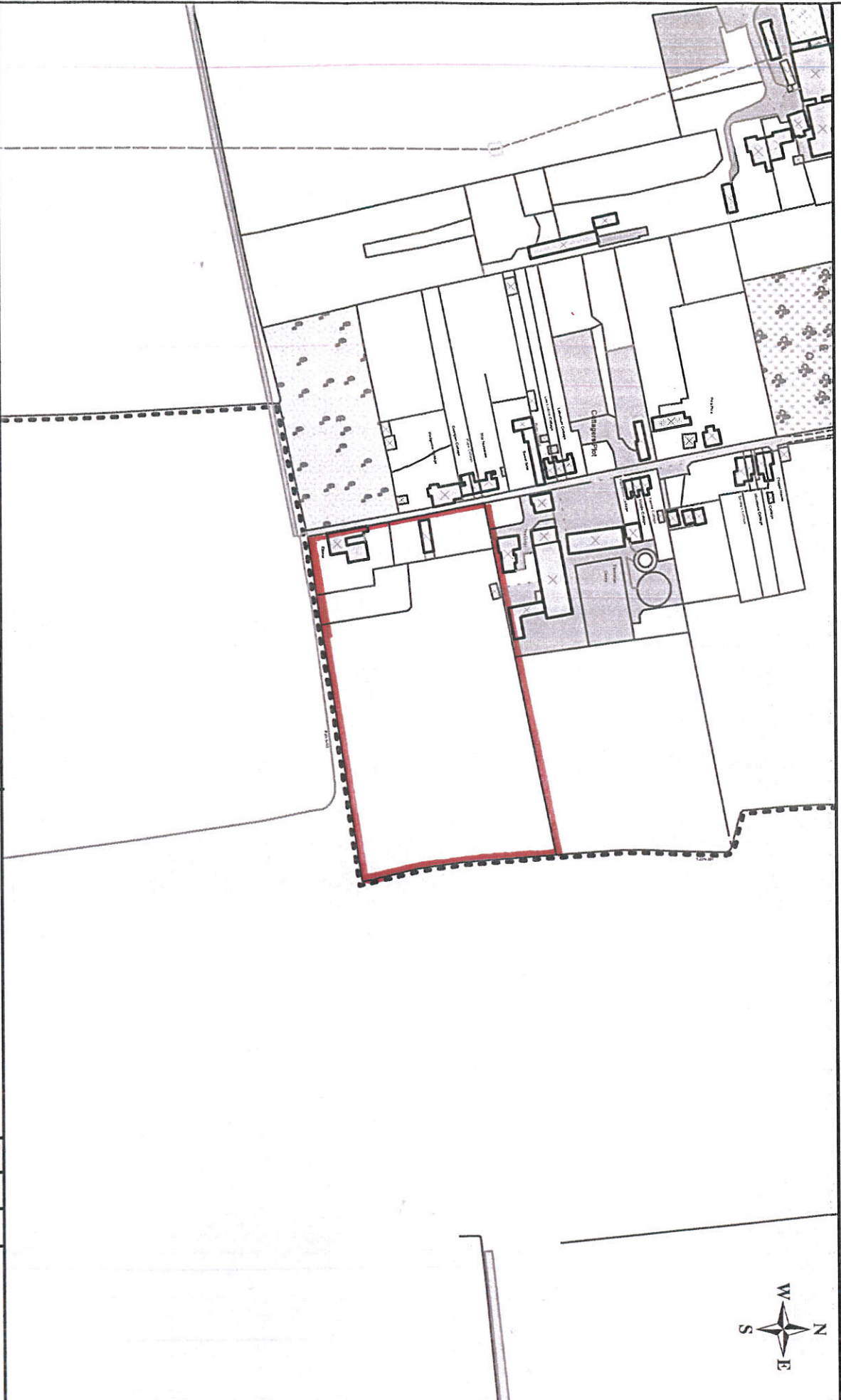
WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of this 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 the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE ARE AS FOLLOWS:

Charles Leslie Hubbard, Elsinore, Cottagers Plot, Laceby, Grimsby, North East Lincolnshire, DN37 7DX

Elsinore, Cottagers Plot





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PART VII

ENFORCEMENT

[^{F1}Introductory

[^{F1}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.]

Annotations:

Amendments (Textual)

- F1** Ss. 171A, 171B inserted (2.1.1992 for certain purposes and otherwise 27.7.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 4(1) (with s. 84(5)); S.I. 1991/2905, art.3 (subject to art. 5); S.I. 1992/1630, art. 2 (with art. 3(1))



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[^{F1}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.]



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Enforcement notices

[^{F1}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.]

Annotations:

Amendments (Textual)

- F1 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

- C1 S. 172: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3



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173 ^{F1}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

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

Amendments (Textual)

- F1 Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art.3 (subject to art. 5)

Modifications etc. (not altering text)

- C1 S. 173: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3
C2 S. 173(10) applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.



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173A ^{F1}**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.

Annotations:

Amendments (Textual)

- F1** Ss. 172-173A substituted for ss. 172, 173 (25.11.1991 for certain purposes and otherwise 2.1.1992) by 1991 c. 34, s. 5(1) (with s. 84(5)); S.I. 1991/2728, art.2; S.I. 1991/2905, art. 3 (subject to art. 5)

Modifications etc. (not altering text)

- C1** S. 173A applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, Sch.



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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.

[^{F1F2}(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 ^{F3} . . . —



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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.

[^{F1}(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]



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176 General provisions relating to determination of appeals.

- [^{F1}(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 [^{F2}section 175(3) would otherwise apply and] the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [^{F3}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



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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—
- [^{F1}(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;
 - [^{F2}(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]

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Modifications etc. (not altering text)

- C1** Ss. 176, 177: power to apply conferred (11.3.1992 so far as to confer on the Secretary of State a power or impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far not already in force) by Planning (Hazardous Substances) Act 1990 (c. 10, SIF 123:1), s. 25(1)(b); S.I. 1992/725, arts. 2, 3
- C2** S. 177 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 18(1), Sch. 4 Pt. I
S. 177: power to apply conferred (10.11.1993) by 1993 c. 28, s. 171(4)(a); S.I. 1993/2762, art. 3