

**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 to the West of The Leys, Welsh Road, Priors Hardwick, Southam, CV47 7SJ ("the Land"), shown edged red on the attached plan ("the Plan")

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

Without planning permission, the change of use of the Land from agricultural land to domestic garden use in connection with dwelling known as The Leys;

and

The erection of a timber climbing frame with integral swing and raised platform (in the approximate position identified as 'A' on the Plan), which comprises operational development requiring planning permission and which facilitates the change of use described above.

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.

- 1) The development has encroached onto agricultural land that falls within the boundary of the Scheduled Ancient Monument (SAM), namely the Medieval Settlement of Priors Hardwick. The children's play equipment and the visual impact of the site's use as garden land is highly visible in views across the SAM. When compared with the site's former character, the development, by virtue of its scale, appearance and design, reads as an incongruous and prominent encroachment onto the medieval settlement. Development of this nature is not reflective of the heritage asset's history and has served to diminish the character and legibility of the SAM. Unacceptable harm to the significance of the SAM as a designated heritage asset has arisen.

It is also considered that for the same reasons, the significance of the Priors Hardwick Conservation Area and the setting of St Marys Church has been detrimentally affected. The harm is considered less than substantial and is not considered to be outweighed by the public benefits generated by the unauthorised development. The development is considered to conflict with Policy CS.8 of the Stratford-on-Avon District Core Strategy 2011-2031 and the NPPF on this basis.

- 2) The Scheduled Ancient Monument (SAM) is an important feature of Priors Hardwick's landscape. Open views across the SAM reinforce the village's verdant and spatial character and strengthens its connection with the rural landscape beyond the village boundary. By reason of its inappropriate position within the heart of the historic village core, the development fails to positively respond to local landscape character. It appears as a random, incongruous, and overly prominent feature of the landscape, particularly when observed from properties surrounding the Scheduled Ancient Monument. The development reads as an encroachment into the open countryside, threatens the open character of the SAM and reads as an incremental weakening of the distinctiveness of Priors Hardwick as a village with medieval origins. The proposal conflicts with Policies CS.5, CS.9 and CS.12 of the Stratford-on-Avon District Core Strategy 2011-2031 on this basis.
- 3) The erection of children's play equipment on agricultural land to facilitate a change of use to domestic garden land is not considered an acceptable form of development in the open countryside. The development has led to an encroachment of domestic use into the open countryside and undermines the purpose of Stratford-on-Avon District Core Strategy 2011-2031 Policy AS.10 which seeks to protect the district's countryside from unsustainable and inappropriate forms of development.
- 4) The development is considered to provide unacceptable opportunities for overlooking into the private domestic gardens of the adjacent properties fronting London End, known as 2 London End and Hedgerows. The views gained from the climbing frame structure with its raised platform are intrusive and therefore unneighbourly. It is considered that the structure is unacceptably close to both neighbour's rear boundary fences and has the effect of significantly compromising their privacy. Due to the lack of screening between the site and the gardens of these two properties, the use of the land as domestic garden land and the siting of children's play equipment in the existing position conflicts with Policy CS.9 of the 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 the timber climbing frame from the Land

(Note: Where the climbing frame is retained by a ground fixing this may be cut off at ground level to facilitate removal. Works below ground level are not allowed within the scheduled monument unless scheduled monument consent has been granted by the Secretary of State).

- b) Remove all other play equipment from the Land

(Note: Where the play equipment is retained by a ground fixing this may be cut off at ground level to facilitate removal. Works below ground level are not allowed within the scheduled monument unless scheduled monument consent has been granted by the Secretary of State).

- c) Cease the use of the Land for domestic garden purposes

- d) Remove all elements of the post and rail fence (along alignment W-X-Y-Z on the Plan) above ground level from the Land by cutting the posts to ground level and leaving the subterrain post in situ.

(Note: Works below ground level are not allowed within the scheduled monument unless scheduled monument consent has been granted by the Secretary of State).

6. **TIME FOR COMPLIANCE**

- a) Within 3 months from the date this Notice takes effect
- b) Within 3 months from the date this Notice takes effect
- c) Within 3 months from the date this Notice takes effect
- d) Within 3 months from the date this Notice takes effect

7. **WHEN THIS NOTICE TAKES EFFECT**

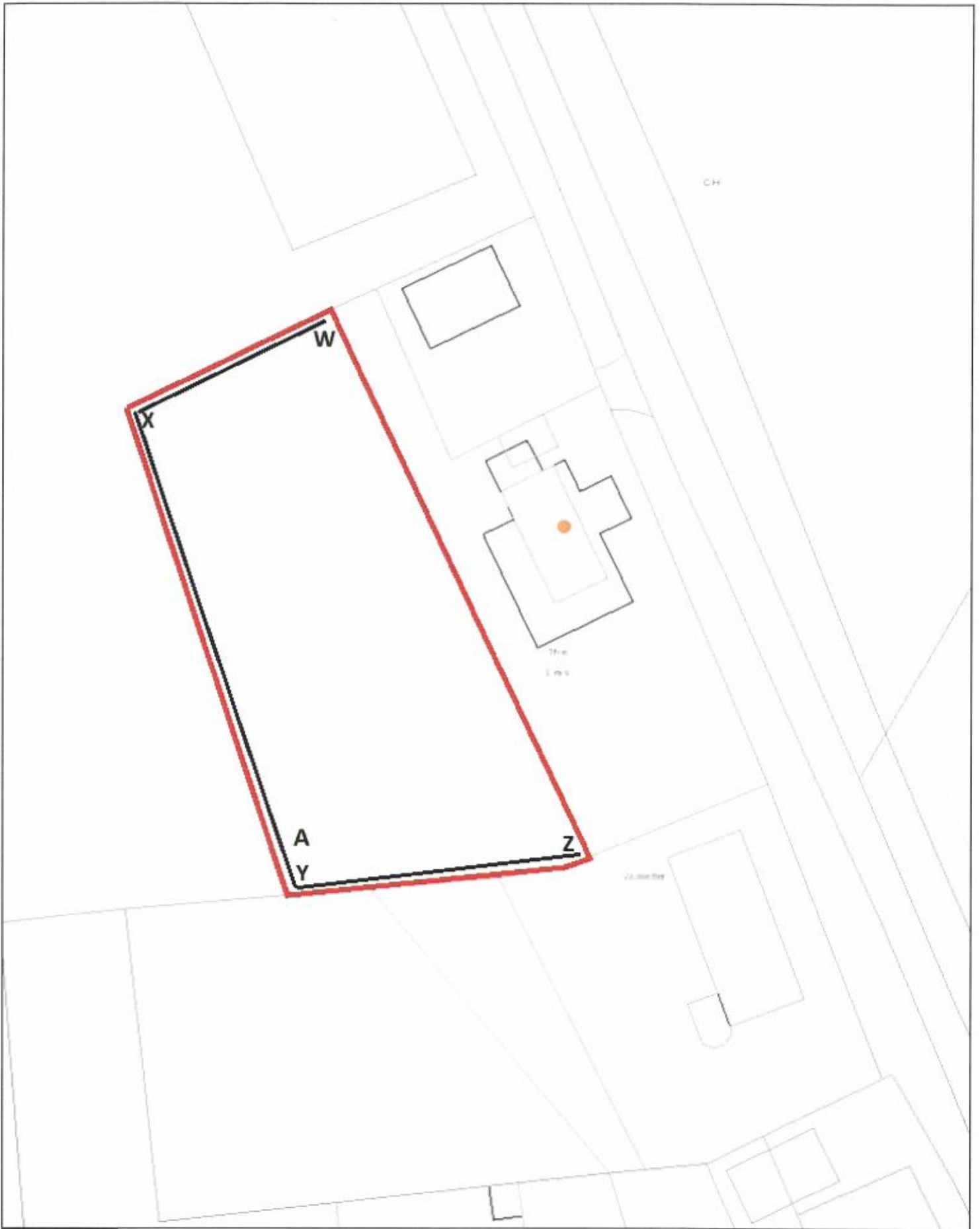
This notice takes effect on **25 March 2024** unless an appeal is made against it beforehand.

**Dated:** 15<sup>TH</sup> FEBRUARY 2024

**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



The Leys, Welsh Road, Priors Hardwick, Southam, CV47 7SJ  
22/00293/DESCOU]



Scale 1:500



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## 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 **25 March 2024**.

**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 £1156 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 **25 March 2024** 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**

Mr G Wilson  
The Leys  
Welsh Road  
Priors Hardwick  
Southam  
CV47 7SJ

Mrs S J Wilson  
The Leys  
Welsh Road  
Priors Hardwick  
Southam  
CV47 7SJ