

**RE: AGP STEEL 3 SPILSBY ROAD HAROLD HILL RM3 8UT**

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

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

**ENFORCEMENT NOTICE**

- TO:**
1. The Owner
  2. The Occupier
  3. Threadneedle Pensions Limited  
Cannon Place  
78 Cannon Street  
London  
EC4N 6AG
  4. AGP Steel Structures London Limited  
10 Towerfield Road  
Shoeburyness  
Essex  
SS3 9QE
  5. AGP Steel Structures London Limited  
3 Spilsby Road  
Romford  
RM3 8UT
  6. AGP Steel Fabrication Limited  
10 Towerfield Road  
Shoeburyness  
Essex  
SS3 9QE
  7. Threadneedle Pensions Limited  
c/o Savills  
33 Margaret Street  
London  
W1G 0JD

**ISSUED BY:** London Borough of Havering

1. **THIS IS A FORMAL NOTICE** which is issued by the Council as the Local Planning Authority for a breach of planning control, under Section 171A(1)(b) of the Town and Country Planning Act 1990 as amended. The Council considers it is expedient to issue this Notice, having regard to the provisions of the development plan and other material planning considerations.

## **2. THE LAND AFFECTED**

The land and buildings at 3 Spilsby Road, Harold Hill RM3 8UT shown edged and hatched black on the attached plan with Land Registry Title Number EGL224719.

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

The unauthorised use of the land and building in contravention of the permitted hours of operation in the following condition of the planning permission for the land and buildings granted on appeal by the planning inspector under reference APP/B5480/C/10/2138008 dated 2 June 2011:

### Condition 3 which states:

“Inside the building no machinery shall be operated or processes carried out outside the hours of 07:30 to 17:30 Mondays to Fridays, 07:30 to 13:00 Saturdays, nor at any time on Sundays, Bank or Public Holidays.”

Machinery is being operated and steel fabrication is taking place outside of the hours specified above.

## **4. REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the breach of planning control has occurred within the last ten years and that the unauthorised use of the land and buildings in contravention of the permitted hours of operation in the stated condition gives rise to noise, nuisance and disturbance and is an injury to the amenity of residential occupiers in the locality of the land and buildings.

The unauthorised activities are contrary to Policies DC55 and DC61 of the Local Development Framework – Core Strategy and Development Control Policies Development Plan Document 2008.

The Council does not consider that planning permission should be granted for the alleged breach of planning control.

## **5. WHAT YOU ARE REQUIRED TO DO**

Comply fully with the stated condition 3 of the planning permission granted on appeal by the planning inspector under reference APP/B5480/C/10/2138008 dated 2 June 2011 by ceasing the unauthorised use of the land and buildings in contravention of the permitted hours of operation in the stated condition as described above. Cease the operation of any machinery or carrying out of any processes within the building outside of the hours stated in Condition 3.

Time for compliance: Immediately when this Notice takes effect.

## **6. WHEN THIS NOTICE TAKES EFFECT**

This Notice will take effect on 22<sup>nd</sup> December 2017, unless an appeal is made against it beforehand

Dated: 21<sup>st</sup> November 2017

Signed:

A handwritten signature in black ink that reads "Simon Thelwell". The signature is written in a cursive style with a large initial 'S'.

Simon Thelwell, Planning Manager – Projects and Regulation

Authorised Officer

on behalf of London Borough of Havering  
Town Hall  
Main Road  
Romford RM1 3BD

### **YOUR RIGHT OF APPEAL**

You can appeal against this Enforcement Notice to the Secretary of State by the 22<sup>nd</sup> December 2017. Further details are given in the attached explanatory note.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement Notice, it will take effect on 22<sup>nd</sup> December 2017 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 MAY RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.**

## **EXPLANATORY NOTES**

### **STATUTORY PROVISIONS**

A copy of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

### **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be received, or posted (with the postage paid and properly addressed) in time to be received by the Planning Inspectorate acting on behalf of the Secretary of State before 22<sup>nd</sup> December 2017.

If you intend to appeal against this Notice you should follow the instructions given on the information sheet from the Planning Inspectorate which accompanies this Notice.

### **GROUND 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, 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 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 these grounds may be relevant to you.

### **PLANNING APPLICATION FEE**

Should wish to appeal on ground (a) - that planning permission should be granted for a alteration of hours of operation - then a fee of £390 is payable to the Council. If the fee is 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 the Secretary of State sends him 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 the persons on whom the Enforcement Notice has been served are:

1. The Owner
2. The Occupier
3. Threadneedle Pensions Limited  
Cannon Place  
78 Cannon Street  
London  
EC4N 6AG
4. AGP Steel Structures London Limited  
10 Towerfield Road  
Shoeburyness  
Essex  
SS3 9QE
5. AGP Steel Structures London Limited  
3 Spilsby Road  
Romford  
RM3 8UT
6. AGP Steel Fabrication Limited  
10 Towerfield Road  
Shoeburyness  
Essex  
SS3 9QE
7. Threadneedle Pensions Limited  
c/o Savills  
33 Margaret Street  
London  
W1G 0JD



## **Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended)**

### **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.

### **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—

(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; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, 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; 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.

(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.

(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 section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) 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 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 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.

### **178 Execution and cost of works required by enforcement notice.**

(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may—

(a) enter the land and take the steps; and

(b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a copy of an enforcement notice has been served in respect of any breach of planning control—

(a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and

(b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,

shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.

(3) Regulations made under this Act may provide that—

(a) section 276 of the Public Health Act 1936, (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);

(b) section 289 of that Act (power to require the occupier of any premises to permit works to be executed by the owner of the premises); and

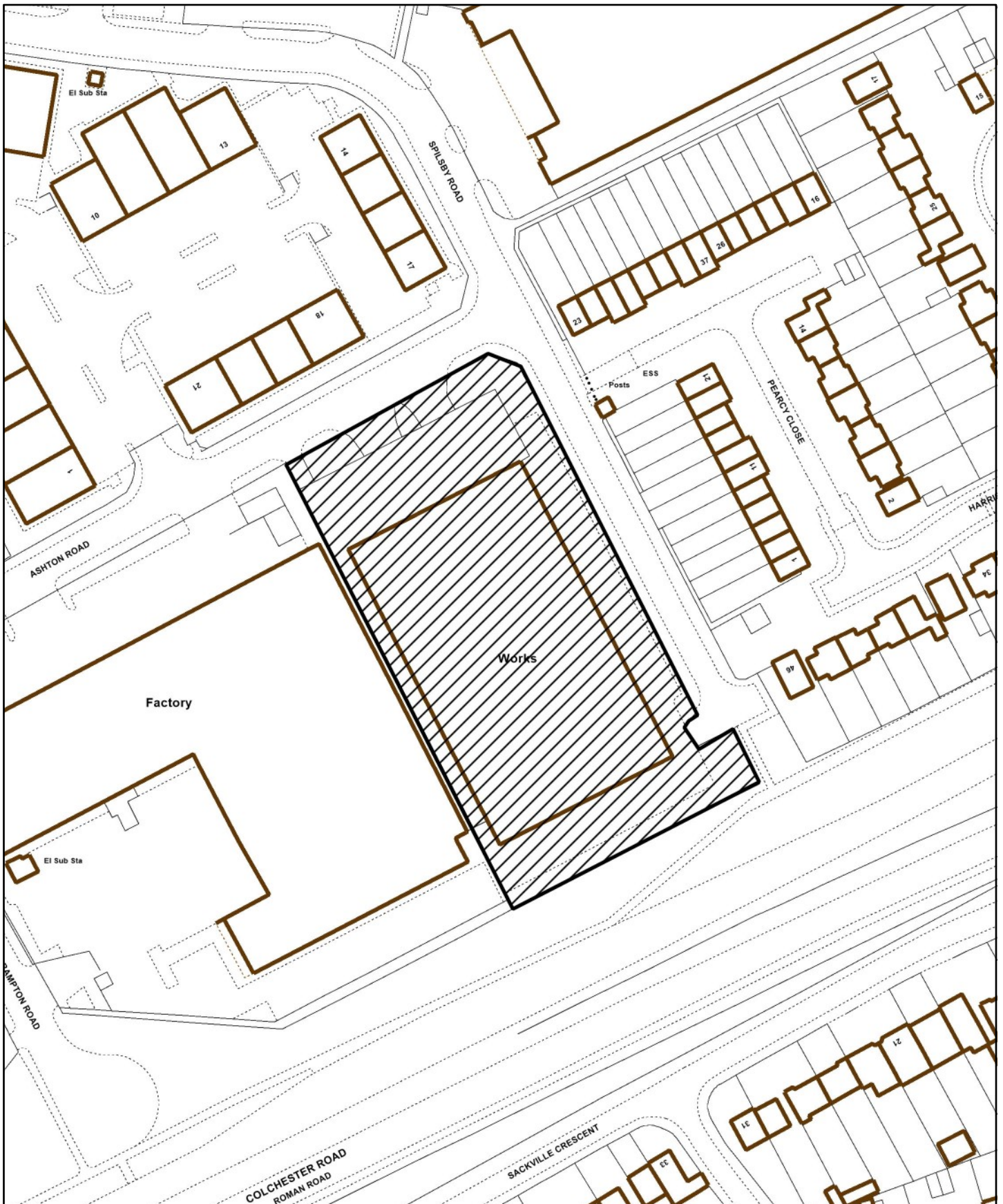
(c) section 294 of that Act (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),



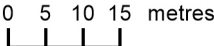

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by an enforcement notice.

(4) Regulations under subsection (3) applying section 289 of the Public Health Act 1936 may include adaptations and modifications for the purpose of giving the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(5) Regulations under subsection (3) may also provide for the charging on the land of any expenses recoverable by a local planning authority under subsection (1).

(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.



<p><b>3 Spilsby Road</b></p>	<p><b>Enforcement Notice Plan</b></p> 
	<p><b>Scale: 1:1250</b></p> <p><b>Date: 20 November 2017</b></p> 
 <p>London Borough of Havering Town Hall, Main Road Romford, RM1 3BD Tel: 01708 434343</p>	<p>© Crown copyright and database rights 2017 Ordnance Survey 100024327</p>

