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

ENFORCEMENT NOTICE
MATERIAL CHANGE OF USE

ISSUED BY: CHICHESTER DISTRICT COUNCIL ("the Council"), on behalf of the **SOUTH DOWNS NATIONAL PARK AUTHORITY ("the SDNPA")**

REFERENCE NUMBER: FU/66

1. **THIS NOTICE** is issued by the Council on behalf of the SDNPA 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 TO WHICH THE NOTICE RELATES**

Land at New Barn Farm, Common Road, Funtington, Chichester, West Sussex ("the Land"), shown edged red on the attached plan ("the Plan").

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

Without planning permission, change of use of the land to B8 commercial storage.

4. **REASONS FOR ISSUING THIS NOTICE**

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

The Site is situated in the South Downs National Park. The SDNPA has the following statutory purposes and socio-economic responsibilities, as specified in the Environment Act 1995.

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
2. To promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public.

Working in partnership with other Local Authorities and other organisations, it is also the duty of the SDNPA to seek to foster the economic and social well-being of the local communities within the National Park.
The site is situated in the Rural Area as well as within the South Downs National

Park (SDNP). The storage container facility represents a significant form of development that is neither small in scale nor requires a countryside location. Furthermore the nature of the development generates a substantial number of vehicle movements to and from the site unrelated to the agricultural or lawful commercial uses carried on at the site and within the adjacent buildings. The intensification of commercial activity is therefore considered to represent an unsustainable form of development in this rural location which is having harmful effect on the character and appearance of the surrounding area, and harmful to the relatively tranquil nature of this part of the SDNP. Any benefits to the local economy of this self-storage facility are not considered sufficient to outweigh the harm to the interests of acknowledged important and as such the development represents an unsustainable form of development contrary to policies RE1, RE12, B6 and BE11 of the Chichester District Local Plan First Review 1999, policies contained in the NPPF and policies SD1, SD4, SD5, SD7 SD19, SD34, SD40 of the emerging South Downs Local Plan Pre-submission September 2017. The Council does not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

(i) Cease using the site for B8 commercial storage;
(ii) Remove all the metal containers from the land;
(iii) Remove all the vehicles from the land;
(iv) Remove the metal palisade fencing and gates in the approximate positions shown on the attached plan from the land; and
(v) Remove the concrete road in the approximate position shown on the attached plan.

6. TIME FOR COMPLIANCE:

Four months after this notice takes effect.

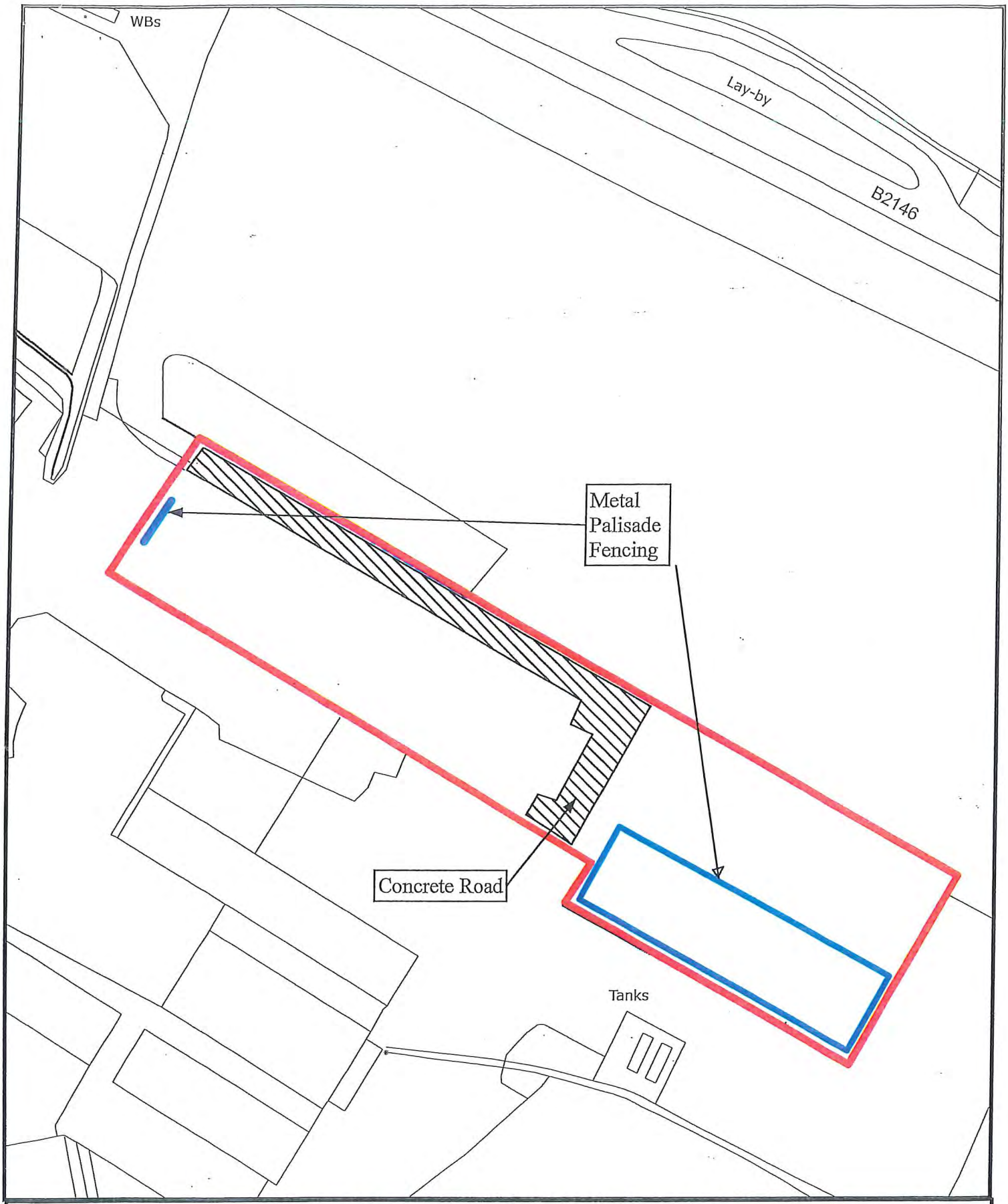
7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 15th February 2018, unless an appeal is made against it beforehand.

Dated: 4th January 2018

Signed: [redacted]

on behalf of Chichester District Council
East Pallant House, East Pallant,
Chichester, West Sussex PO19 1TY



CHICHESTER DISTRICT COUNCIL

Working in partnership with the South Downs National Park

S. R. CARVELL, DIP TP, MRTPI.

EXECUTIVE DIRECTOR OF ENVIRONMENT

South Downs National Park Authority

Subject: Enforcement Notice Plan

LOCATION: Land at New Barn Farm, Common Road, Funtington, West Sussex

File Reference: FUNT/ SDNP/16/00496/OPDEV	Scale: 1:1250	.
	O.S. Plan Reference: SU8008	Produced on GIS by NW

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EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. 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. **Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.**

The Planning Inspectorate produce a booklet entitled "Making your Appeal" which sets out your rights and the procedure to be followed. You can obtain this booklet either from Planning Inspectorate or from their Customer Support Unit by phoning 0117 3726372. The grounds on which an appeal may be made are set out in section 174 of the Town & Country Planning Act 1990. You will find an explanation of the grounds in the "Making your Appeal" booklet.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds (not all of these grounds may be relevant to you)

(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.

If you decide to appeal, when you submit it, 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 will send you a notice requiring you to do so within 14 days.

FEE PAYABLE FOR THE DEEMED APPLICATION

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990, this is the equivalent of applying for planning permission for the development alleged in the notice. You should pay the fee in full to South Downs National Park Authority (cheques should be made payable to South Downs National Park Authority), which in the case of an enforcement appeal is **double** the amount for a normal planning application fee. Please see the attached Chichester District Council's Development Control Fees Schedule for a guideline on the **single** "deemed application" fee (also available on webpage http://www.chichester.gov.uk/index.cfm?articleid=6464) Once the Ground (a) appeal has been submitted, please contact the Planning Enforcement Team either by email planningenforcement@chichester.gov.uk or telephone 01243 534734 to confirm the amount of fee payable.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against the Enforcement Notice, the Notice will take effect on the date specified in paragraph 7 indicated above and you must then ensure that the required steps for complying with it, and for which you may be held responsible are taken within the period/s specified in paragraph 6 of the Notice. Failure to comply with an enforcement notice that has taken effect is a criminal offence and can result in legal proceedings and or remedial action by the Council.

PERSONS SERVED WITH A COPY OF THIS ENFORCEMENT NOTICE

In accordance with the legislation, this Enforcement Notice has been served on the following individuals / organisations:

The Owners

1. [redacted]
2. [redacted]

The Occupiers

3. [redacted]
4. [redacted]
5. [redacted]
6. [redacted]
7. [redacted]

The Enforcement Notice has been sent for information to the following individuals / organisations:

Other named Parties [redacted]

TOWN & COUNTRY PLANNING ACT 1990 ENFORCEMENT Sections 171A, 171B, 172-177

s. 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; or
(b) the service of a breach of condition notice,
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 . 1971 Act.

s.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.]

s.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.

s.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 service 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.

s.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.